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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09526(E)
1809526

Please recycle

INDIA: Independence of lawyers and judges at the forefront

The Asian Legal Resource Centre (ALRC) requests the attention of the United Nations Human Rights Council to the status of independence for lawyers and members of the judiciary in India.

In January 2018, an unprecedented event took place in India – 4 of the senior-most judges of the Supreme Court of India, India's apex court held a press conference, expressing their discontent at the way the Chief Justice of India was allotting cases, hinting at a lack of transparency. They stated that India's democracy will not survive unless the judiciary is preserved, and that the Supreme Court's administration is not in order. Transparency in the higher judiciary, both in the matter of appointment of judges as well as in the allocation of cases have come under the scanner earlier. The revolt of the judges opened the floodgates to many a fiery discussion and calls for reform of the institutions.

The judges revolt has its roots in another shocking case – the mysterious death of Justice Loya, a judge of a CBI court that was hearing a fake encounter case (i.e. the Sohrabuddin Sheikh case) and the subsequent alleged cover-up by hospital and police authorities. The Judge Loya case too highlighted the ills plaguing the judiciary in India and the many ways in which the institution can be captured and abused, to deny human rights to the people, especially those who are courageous enough to access our crumbling justice system.

The ALRC calls on the Special Rapporteur on the independence of judges and lawyers, and the UN Human Rights Council, to engage with the Indian government on this important issue and encourage transparency and accountability within the Indian judiciary.

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[25 May 2018]

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Please recycle

INDIA: Human trafficking and threats to anti-trafficking activists a grave concern

The Asian Legal Resource Centre (ALRC) requests due attention to the issue of human trafficking and the related issue of threats to anti-trafficking activists in India.

The ALRC has received information from its partner organisations across the country regarding the issue of human trafficking of women and children in India. According to information received from GURIA, ALRC's partner organisation in Varanasi, Uttar Pradesh, anti-trafficking activists have received threats for their work against trafficking and re-trafficking of minor girls in the area. The threats have been received by their staff members, especially at the time they go to court to depose against the traffickers and others involved. The victims who were rescued by GURIA were re-trafficked from the Government home they were lodged, and they are still at large. Communication regarding this case was sent to the UN Special Rapporteur's office earlier and ALRC's sister organisation AHRC has received acknowledgement of the same

It is crucial that they are located and rescued urgently by the state authorities and it is hoped that the intervention of the UN Special Rapporteur's office will force the Indian authorities to take action in these cases. The ALRC and AHRC also routinely receive information regarding trafficking of women and children near the Indo-Bangladesh border from our partner organisation, MASUM. These issues intersect with issues handled by the UN Special Rapporteur on the human rights of migrants and ALRC urges both the mandate holders to work together the Indian authorities to ensure justice for the victims.

Finally, the ALRC/AHRC has been following up for many months on a case of missing woman, Suderkala Rai, from Sikkim, referred to us by the Impulse NGO Network, who was allegedly trafficked to Kuwait. The AHRC has sent many communications to authorities in India and Kuwait regarding this case but to no avail. Ms.Rai has been missing since January 2010 and the ALRC urges the UN Special Rapporteur and the Human Rights Council to work together and urge the Indian and Kuwaiti governments to work together to locate this missing woman, on an urgent basis.

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Please recycle

INDIA: Knee-jerk reactions to deal with violence against women will not help

The Asian Legal Resource Centre (ALRC) wishes to raise its concern and draws the attention on the recurring and systemic issue of violence against women in India

In 2018, India was witness to some horrific crimes of sexual violence, especially against minors. In January 2018, an 8-year-old girl was found raped and murdered in Kathua, Jammu and Kashmir and the case finally got national attention only in April 2018. The little girl was said to have been raped and murdered to send a message out to the nomadic Bakarwal tribe in the region who are Muslims. Of the accused, two are police officers and the crime drew varied reactions from different quarters, including support for the accused from right-wing fundamentalist groups. Around the same time, in April 2018, in Unnao, Uttar Pradesh, a minor woman attempted to immolate herself outside the Chief Minister's office in protest. She alleged that she was raped by a politician from the ruling Bharatiya Janata Party (BJP) in June 2017, and her attempts at filing a complaint were in vain. Further, her father was arrested, allegedly at the behest of the politician's supporters and allegedly tortured in police custody, after which he died due to his injuries. In both cases, we see the use of state machinery to cover up cases of sexual violence and protect the powerful.

These cases also show the power wielded by the media to demand action, and our unhealthy dependency on the media to obtain justice. The media frenzy created is this case is a double-edged sword and in the aftermath of the Kathua rape and murder case, a legal ordinance imposing death penalty for cases of rape of girls below 12 years of age. It remains to be seen whether this ordinance will become the law.

The ALRC urges the UN Special Rapporteur on Violence against women, and the Human Rights Council, to engage with the Indian Government to establish long last solutions to end violence against women, most crucially with respect to the behaviour of law enforcement official in India. Further, the UN must enter into a dialogue with India regarding the futility and inhumaneness of the death penalty as a potential solution to end violence against women and instead encourage India to spend its efforts in reforming the criminal justice system.

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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809584

Please recycle

Human Rights Now Strongly Protests the Recent Killing of Palestinian Civilians along the Gaza-Israeli Border

Human Rights Now, a Tokyo-based human rights NGO, expresses grave concern over the recent killings of Palestinian demonstrators by Israel Defense Forces (IDF) along the Gaza border. Israeli authorities must abide by their international obligations under international human rights law and humanitarian law and should immediately end the excessive use of force against Palestinian protesters, ensure accountability, and prevent future occurrences of excessive force.

1. More than 100 Palestinians Killed by the IDF along the Gaza-Israeli Border Since March

On 30 March 2018, Palestinians began a series of mass demonstrations protesting US President Trump's decision to relocate the US Embassy in Israel to Jerusalem and the long-term blockade of Gaza. Demonstrators approaching the Gaza border were met with grossly disproportionate force by the IDF, which killed more than 100 Palestinians and injured 1000s more in the weeks that followed, in some cases using live ammunition.[1]

Mass demonstrations on May 14, the date of the new US embassy's inauguration, reportedly involved around 40,000 Palestinian demonstrators[2] and led to at least 60 Palestinian demonstrators reportedly killed by the IDF.[3] HRN has strongly protested the US decision to move its embassy as a violation of several UN Security Council Resolutions,[4] and we continue to strongly protest it as a root cause of the present violence. Altogether, the Office of the High Commissioner for Human Rights reported that 112 Palestinians have been killed,[5] and more than 12,000 injured, since 30 March.[6]

2. Disproportionate Use of Force by the IDF

IDF soldiers are reportedly permitted under their rules of engagement to fire with live ammunition on individuals who attempt to damage the fence or who approach within as little as 100m of it.[7] Palestinian health officials also reported that Israeli forces have used mostly gunfire, in addition to tear gas and rubber bullets.[8] And an IDK spokesman also

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1 UNSC Press Release, "Security Council Members Condemn Killing of Palestinian Civilians in Clashes at Israel-Gaza Border after Peaceful Protest Turned Violent", 30 March 2018, SC/13273, https://www.un.org/press/en/2018/sc13273.doc.htm.

2 Washington Post, "Israelis kill more than 50 Palestinians in Gaza protests, health officials say", 14 May 2018, https://www.washingtonpost.com/world/middle_east/gaza-protests-take-off-ahead-of-new-usembassy-inauguration-in-jerusalem/2018/05/14/eb6396ae-56e4-11e8-9889-07bcc1327f4b_story.html?utm_term=.379b635fedd2.

3 Reuters, "Israeli forces kill two Palestinians near border as Gaza buries dead", 15 May 2018, https://www.reuters.com/article/us-israeli-palestinians/israeli-forces-kill-two-palestinians-near-border-as-gaza-buries-dead-idUSKCN1IG1A7

4 HRN, "HRN strongly protests the announcement made by the United States of America to move the Israeli Embassy and urges the US to withdraw its decision", 8 December 2018, http://hrn.or.jp/eng/news/2017/12/08/us-decision-on-jerusalem-statement/.

5 OHCHR, "Press briefing notes on Gaza, Burundi and Myanmar", 15 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23086&LangID=E.

6 OHCHR, "Special Session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem – Statement by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, 18 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23100&LangID=E.

7 NY Times, "300 Meters in Gaza: Snipers, Burning Tires and a Contested Fence", 15 May 2018, https://www.nytimes.com/interactive/2018/04/13/world/middleeast/gaza-fence-aerial.html.

8 Reuters, "Israeli forces kill 16 Palestinians in Gaza border protests: Gaza medics", 30 March 2018, https://www.reuters.com/article/us-israel-palestinians-protests/israeli-forces-kill-16-palestinians-in-gaza-border-protests-gaza-medics-idUSKBN1H60AV.

admitted on May 15 that Israel failed to minimize the number of Palestinian casualties and that some Palestinians "that weren't the target" were hit by gunfire.[9] A number of NGOs in Israel petitioned its High Court of Justice on May 1 to change the IDF's rules of engagement, charging that the rules permit live fire at protesters classified by the IDF as "key participants in the riots", even when these individuals do not immediately threaten the security of the IDF.[10]

3. Violations and Inconsistencies with International Law and Principles

The use or ordering of disproportionate lethal force by IDF soldiers against Palestinian demonstrators would, if verified, contravene Israel's ICCPR duties to respect their rights to life, peaceful assembly, association, and expression.[11] Responding to the violence, the High Commissioner for human rights similarly stated that "Palestinians' right to life, their right to security of the person and rights to freedom of assembly and expression must be respected & protected."[12]

Furthermore, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials hold that preference should be given to "non-violent means" when policing protests, and that when lawful use of firearms is unavoidable, officials should "act in proportion to the seriousness of the offence" and "minimize damage and injury."[13] IDF soldiers using firearms and lethal force to respond to demonstrators approaching the border fence and using reportedly limited, non-lethal force is disproportionate and contravention of these principles. In a May 18 statement, the High Commissioner for Human Rights also stated that "[k]illings resulting from the unlawful use of force by an occupying power may also constitute 'willful killings' - a grave breach of the Fourth Geneva Convention", referring to article 147.[14]

4. Calls for Accountability

The Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory occupied since 1967, Michael Lynk, condemned Israel's excessive use of force towards largely unarmed demonstrators and called for "true accountability" to those who ordered or allowed the excessive use of force.[15] To that end, the Human Rights Council voted on 18 May 2018 to dispatch an "independent, international commission of inquiry" to investigate what it called "military assaults" on Palestinian protesters.[16] The Prosecutor of the ICC further stated on 8 April 2018 that her office was watching the situation closely, that the Palestine situation is under preliminary examination by the ICC, and that

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9 Uri Blau, "Top IDK Spokesperson tells U.S. Jews: Israel Failed to Minimize Gaza Casualties, Hamas Won PR War by Knockout", Haaretz, 17 May 2018, https://www.haaretz.com/middle-east-news/palestinians/.premium-hamas-won-pr-war-we-failed-on-gaza-casualties-admits-israeli-spokesperson-1.6094562.

10 The Association for Civil Rights in Israel, "Human Rights Organizations Petition High Court against Shooting along Gaza Border", 16 May 2017, https://www.acri.org.il/en/2018/05/16/human-rights-organizations-petition-high-court-against-shooting-along-gaza-border/.

11 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171, Arts. 6, 21, & 22, http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf.

12 UN Human Rights, Twitter, 18 May 2018, https://twitter.com/UNHumanRights/status/997394882137346048.

13 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, Arts. 4 & 5, http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf.

14 OHCHR, "Special Session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem – Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein", 18 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23100&LangID=E; International Committee of the Red Cross, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Art. 147, https://ihl databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5.

15 OHCHR, "UN human rights expert condemns horrific violence in Gaza", 15 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23087&LangID=E.

16 HRC Resolution S-28/1, "Violations of international law in the context of large-scale civilian protests in the Occupied Palestinian Territory, including East Jerusalem", A/HRC/RES/S-28/1, 18 May 2018, http://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session28/Pages/28thSpecialSession.aspx.

violence against civilians, as is prevailing in Gaza, could constitute crimes under the Rome Statute of the ICC, as could the use of civilians to shield military activities.[17]

Allegations of disproportional use of lethal force by the IDF must be investigated, offending persons must be held accountable, and victims must receive redress from the Israeli government.

5. Recommendations

HRN expresses deep concern over the serious human rights violations against the Palestinian people and the excessively lethal response by Israeli authorities to the recent demonstrations along the Gaza-Israeli border.

HRN calls on the Israeli government to:

- Respect the fundamental human rights to life and peaceful protest of Palestinian demonstrators;
- Launch an independent and effective investigation into all incidents resulting in death or injuries of Palestinian protesters and, in cases of excessive use of force, bring those responsible to justice;
- Co-operate fully with the investigation commissioned by the Human Rights Council into alleged violations of international law since 30 March 2018;
- Effectively investigate and repeal any rules of engagement which permit the use of lethal force against persons not posing imminent danger;
- Cease all violations of international criminal law, international human rights, and humanitarian law against Palestinian people and take measures to prevent future violations.

HRN calls on the US government to:

- Reverse its decision to relocate its embassy to Jerusalem.

HRN further requests the international community to:

- Support efforts for justice and accountability for perpetrators of human rights abuses against Palestinians, especially by the IDF;
- Actively work towards a political solution for Palestine in accordance with international law.

17 ICC, "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding the worsening situation in Gaza", 8 April 2018, https://www.icc-cpi.int/Pages/item.aspx?name=180408-otp-stat.

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Human rights bodies and mechanisms

Written statement* submitted by the Ecumenical Federation of Constantinopolitans, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809588

Please recycle

The Government of the Republic of Turkey is requested to respond to proposals of Remedy and Reparation Measures towards the Greek-Orthodox Community of Istanbul

Thank you Mr. President.

The present international status of the Greek-Orthodox Community of Istanbul was established by the Lausanne Treaty at the time the Republic of Turkey (RT) was founded. The Ecumenical Federation of Constantinopolitans (EFC) is the worldwide federative body of this Community, a Community forced to expatriate from its native land by the anti-minority policies and acts of the Governments of the RT during the period 1923-2000, which have been reported in numerous UN Human Rights Conferences and Organizations in recent years. Since 2002, the Authorities of the RT have themselves recognized on multiple occasions that the above-mentioned anti-minority measures against the non-Muslim communities (such as defined in the Lausanne Treaty), which caused the population of the Community to drop from 100.000 early in 1950's to 1.500 at present, were indced a part of government policies implemented by past Governments of the RT.

EFC, since early 2010, has been submitting specific proposals directly to the Turkish Government, in accordance with the existing legal framework, aiming for Remedy and Reparation measures based on the UN Resolution 60/147, in order to achieve the survival of the dwindling Community. Some early positive responses were noted, such as the restitutions of citizenship or the improvement in the relations with the Ecumenical Patriarchate and with minority schools. However, the Turkish Authorities have yet to respond to our requests for support of the repatriation of expatriate Community members, alleviation of Community Welfare Foundations restrictions, reopening of the Heybeliada Clergy School which has remained illegally closed for 47 years, or the return of cultural items such as the archive of the Greek Literary Society, an Academic Institution of the Community during the period 1862-1922.

The EFC respectfully requests the TR to respond to its submitted proposals.

Thank you for your attention.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

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1809586

Please recycle

Serious and Widespread Human Rights Violations Reported in Thailand's Poultry Sector

Human Rights Now (HRN), a Tokyo-based international human rights NGO, will soon release a report on labour rights violations in Thailand's poultry sector.[1] The report highlights serious labour and human rights violations across the sector, particularly among poultry export factories and farms supplying them. HRN is concerned about both the labour and human rights violations and the practice of employers using private criminal prosecutions to harass complaining workers and labour rights activists campaigning in this area.

HRN calls on Thai poultry farms, export factories, and foreign companies they supply to take measures to identify and end these violations, for the government of Thailand to adopt a National Action Plan on business and human rights (BHR) in accordance with the UN Guiding Principles on BHR Framework, and for the governments of states importing Thai poultry to take measures to facilitate the identification and end of these violations.

I. Labour Rights Violations in the Thai Poultry Sector

In 2016, the Thai government conducted an internal review of nationwide poultry farms and issued a report identifying widespread poor working and living conditions alongside implementing a Good Labour Practices programme to urgently improve working and living conditions in the poultry sector, after identifying several violations.

The Thai agriculture sector is notorious for rights abuses, particularly as it is a sector increasingly manned by vast numbers of migrant workers who do not speak the local language, are often exploited by brokers, and are vulnerable to debt bondage and employers confiscating their personal identification documents. Migrant workers often cannot understand their payslips so they do not know whether or how much they were underpaid, overworked, or what deductions were taken. Farms are also physically isolated, which (along with the language barrier) makes it difficult for migrant workers to seek help if their situation is exploitative. The 2004 avian flu virus[2] worsened the labour situation in the years that followed as the industry rapidly expanded production even as the number of farms fell. Thus, fewer workers handled more chickens and worked more hours without time off and without extra pay.

The ILO Committee of Experts has been critical of forced labour practices in Thailand,[3] and existing labour laws are not widely enforced. A 2015 ILO report found about 56% of Thailand's total workforce, 21.4 million workers, were part of an informal economy, generally meaning not formally registered or complying with labour regulations.[4] According to another ILO survey of Thai employers across sectors, about 47% of employers reported that they did not agree with the statement "migrants should have the same rights as Thai citizens."[5]

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1 HRN, "Labour Rights Violations in the Thai Poultry Industry Within the Supply Chains of Japanese Companies", forthcoming, http://hrn.or.jp/eng/news/2018/ ("HRN Report").

2 Anni McLeod, Nancy Morgan, Adam Prakash, & Jan Hinrichs, "Economic and Social Impacts of Avian Influenza", FAO, p.2, http://www.fao.org/avianflu/documents/Economic-and-social-impacts-of-avian-influenza-Geneva.pdf

3 ILO, 'Sixth Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by Thailand of the Forced Labour Convention, 1930 (No. 29) [...]', 2017, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/ ---relconf/documents/meetingdocument/wcms_549113.pdf

4 Jack Huang, "The Overview of Informal Sector in Thailand", 27 Apr. 2017, Chinese Taipei Pacific Economic Cooperation Committee, http://ctpecctw.blogspot.jp/2017/04/the-overview-of-informal-sector-in.html, citing "ILO (n.d.). Social Protection for Thailand's Informal Economy Workers".

5 Elaine Pearson, "The Mekhong Challenge Underpaid, Overworked and Overlook The realities of young migrant workers in Thailand (Vol.1)", ILO, 2006, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_67_en.pdf, pp. 53-54, 57.

II. The Thammakaset Farm 2 Case

HRN's report highlighted a particular labour dispute beginning in 2016 involving 14 former migrant poultry workers of Thammakaset Farm who made claims of forced labour and other labour rights violations. Workers interviewed by HRN described conditions associated with forced labour on the farm, such as not having advance knowledge of illegal conditions and being unable to leave the farm, quit the job, or seek help from employers, authorities or outsiders because, for example, the employer confiscated their documents, threatened not to pay them after they requested to quit, and restricted their cellphone use and ability to talk to outsiders or workers on other farms.[6] Workers also reported being underpaid, working more than the legally allowable hours, and being denied overtime pay, breaks, holidays, and social security, all as required by Thailand's labour law.[7]

Based on these claims, the workers brought a lawsuit against the farm and Betagro, one multinational food processing and export company supplied by the farm. While the details of the case are complex, the workers still have not received any compensation for forced labour or the labour rights violations they have alleged, despite strong evidence for the claims as described in our report and a government order to the farm owner to immediately compensate the workers.

Aside from the labour rights litigation, the workers have also been subjected to harassment by the employer in retaliation for their complaints by private criminal claims, which Thai law permits, including a defamation claim for their complaint letter to the National Human Rights Commission of Thailand alleging forced labour and a theft claim against two workers and a labour activist for taking a time card to show to labour protection officials as evidence of overwork. The employer has also brought defamation and computer crimes charges against activist Andy Hall for his advocacy efforts on the workers' behalf.

On 16 November 2016, the mandates of the UN Working Group on Business and Human Rights and five UN Special Rapporteurs submitted a joint letter to the Thai government calling on it to take measures to respect the rights of the workers and Mr. Hall and prevent forced labour in the poultry industry.[8] On 17 May 2018, the Working Group and five UN Special Rapportuers specifically criticized the use of defamation laws to silence Andy Hall for his advocacy work related to the Thammakaset case.[9]

III. The Duties of Importing foreign States and Companies

Thai-produced poultry is exported globally, with Japan and Europe being the first and second largest importers, respectively, placing the workers in the supply chains of companies within the jurisdiction of these countries. In this regard, the UN Guiding Principles on Business and Human Rights state that governments have a duty to protect workers found throughout the operations of business within their jurisdiction from human rights abuses (Pr. 1 and 2), and companies have a duty to respect human rights and address impacts with which they are involved (Pr. 11), and to prevent or mitigate them even for impacts among their business relationships to which they do not directly contribute (Pr. 13(b)). Companies should publicly affirm a commitment to the Guiding Principles on BHR and implement strong due diligence measures to ensure that poultry workers in their supply chains have not been subjected to forced labour and other labour and human rights violations.

IV. Recommendations

HRN expresses concern at the situation of widespread and serious labour and human rights violations in the Thai poultry sector, particularly involving forced labour and other slavery-like practices.

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6 HRN Report, supra note 1, pp. 21-26.

7 *Id.*, pp. 26-29, 34.

8 "Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises", 16 Nov 2016, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=22831.

9 "Thailand: UN experts condemn use of defamation laws to silence human rights defender Andy Hall", 17 May 2018, https://www.protecting-defenders.org/en/news/thailand-un-experts-condemn-use-defamation-laws-silence-human-rights-defender-andy-hall

HRN calls on Thai poultry farms and companies to:

- Take immediate steps to comply with all national labour laws;
- Conduct regular training of supervisors and workers to ensure respect for labour and human rights.

HRN requests the government of Thailand to:

- Developing a National Action Plan on business and human rights;
- Prevent unjustified defamation and other claims that harass workers and rights activists;

HRN calls on foreign companies with Thai-produced poultry in their supply chains to:

- Publicly affirm a commitment to the UN Guiding Principles on Business and Human Rights;
- Implement strong due diligence measures to identify human rights impacts among Thai poultry suppliers, and take measures to address the impacts identified.

HRN requests governments importing Thai poultry to:

- If they have not already, adopt a National Action Plan on business and human rights; pass legislation to require transparency within supply chains and strict due diligence duties towards activities within them; and ban imports of products made through forced labour or other slavery-like conditions;
- Support rights activists working to ensure increased respect for human rights in the supply chains of companies within their jurisdiction.

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Human rights situations that require the Council's attention

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

The Serious Human Rights Situation in Cambodia

Cambodia's general election, rendered non-competitive following the forced dissolution of the main opposition party, will be held on 29 July 2018.

In the run up to this event, the Cambodian government has continued to pursue its campaign of suppression, silencing critical voices and targeting media outlets, political opposition, human rights defenders (HRDs), and civil society organizations (CSO). Such attacks violate civil and political rights and fundamental freedoms, including those of press, expression, and assembly.

Human Rights Now (HRN), a Tokyo-based human rights NGO, expresses deep concern regarding this situation and urges the Cambodian government to immediately end its campaign of suppression.

I. Suppression of Critical Voices by the Cambodian Government

1) The Government's Control of the Media

Since late 2017, the government has severely restricted critical media through a series of actions including:

- The use of tax law to coerce the shutdown of the paper edition of The Cambodia Daily in September 2017;[1]
- The shutdown of dozens of radio transmissions nationwide carrying independent broadcasts, including Radio Free Asia (RFA), in August 2017 on the pretext of alleged contract violations, severely restricting independent information in rural Cambodia;[2]
- The detention of two RFA journalists, Yeang Sothearin and Uon Chhin, in November 2017 who face spurious treason charges, to which further unsubstantiated charges under the Trafficking Law were added on 29 March 2018.[3]

In addition to these restrictions, the sale of The Phnom Penh Post on 7 May 2018 raised concerns regarding its independence after it was sold to the chief executive of a Malaysian public relations firm who had worked for the Cambodian Prime Minister and who immediately interfered with the editorial independence of the paper.[4]

2) Dissolution of the Main Opposition Party

In September 2017 Cambodia National Rescue Party (CNRP) leader Kem Sokha was detained and charged with treason; weeks later the Supreme Court dissolved the CNRP for allegedly conspiring to overthrow the government, disenfranchising over three million Cambodians who voted for it as the only viable opposition party. This decision has been criticized by many stakeholders including the UN High Commissioner for Human Rights as "hav[ing] been carried out with no respect for due process guarantees...."[5] Under the Supreme Court decision, 118 CNRP elected representatives, officials, and supporters were banned from political activities for five years. Many of these individuals have left Cambodia for their own security and face arrest on return.

Since the dissolution, the government has continued persecuting and harassing former CNRP leaders and supporters. Recent developments include the seizure of the CNRP's headquarters by the Phnom Penh Municipal Court on 27 February 2018 and the rejection by the Supreme Court of a request from Kem Sokha's lawyer that he be granted

1 BBC, 3 September 2017, http://www.bbc.com/news/world-asia-41141473.

2 The Cambodian Daily, 28 August 2017, https://www.cambodiadaily.com/news/anger-mounts-as-radio-purge-knocks-19-stations-off-air-134077/.

3 Broadcasting Board of Governors (US), 01 May 2018, https://www.bbg.gov/threats-to-press/uon-chhin/

4 The New York Times, 7 May 2018, https://www.nytimes.com/2018/05/07/world/asia/cambodia-phnom-penh-post-sale.html.

5 Human Rights Council, "Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights", A/HRC/37/64, 2 February 2018, art. 5, http://undocs.org/A/HRC/37/64.

bail on 7 May 2018.[6] In May, the UN Working Group on Arbitrary Detention declared Kem Sokha's on-going detention arbitrary.[7] Another activist and UNHCR-recognised refugee, Sam Sokha, was reportedly deported from Thailand and sentenced to two years in prison for posting a video on Facebook in which she threw her sandal at a picture of the Prime Minister, according to court documents accessed by The Phnom Penh Post.[8]

Additionally, in a statement made 7 May 2018, the Prime Minister warned Cambodian citizens that spreading leaflets calling to boycott the election would be illegal under article 142 of the Law on Election of Members of the National Assembly, in reaction to a call from former CNRP leader Sam Rainsy.[9] The amended Law on Political Parties further holds that any party posing a threat to ruling party dominance could be dissolved at the request of the government.[10]

3) Harassment of HRDs and CSOs

As in our previous Council statement, HRN remains concerned about the shutdown by the Interior Ministry of the informal election-monitoring platform "Situation Room", the arrest and conviction of two environmental activists working for the NGO Mother Nature, and the dissolution and temporary suspension, respectively, of the National Democratic Institute and Equitable Cambodia under the Law on Associations and NGOs (LANGO). On 18 January 2018, prosecutors in Cambodia also sought criminal charges against Moeun Tola, Executive Director of the Center for the Alliance of Labor and Human Rights (CENTRAL), for alleged "breach of trust" regarding misappropriated funds raised for the funeral of a government critic assassinated in July 2016.

These developments have occurred in the context of increasing legislative restrictions on human rights. Since 2015, Cambodia has passed multiple laws specifically designed to restrict rights and freedoms. In February 2018, the ruling party amended multiple articles to potentially restrict legitimate activities and the exercise of rights, including the right to vote.[11] At the same time, Cambodia's parliament amended its criminal law to include a lèse-majesté provision and constitutional amendments modifying the rights of voters. These changes were criticized by two UN Special Rapporteurs who concluded that "[l]ese majeste provisions are incompatible with Cambodia's obligations under international human rights law, as they criminalize the legitimate exercise of freedom of speech."[12] Since then, two individuals have been charged with lèse-majesté for social media activity.[13]

II. Human Rights Violations and Inconsistencies with International Standards

According to the Human Rights Committee, under article 19 of the ICCPR, member states should "ensure that journalists can carry out their activities without fear of being subjected to prosecution" and "protect media pluralism and avoid state monopolization of media."[14] Thus, the systematic prosecution of critical media and journalists and the *de facto* control of the remaining media by the government is a violation of article 19 of the ICCPR.

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6 Reuters, 27 February 2018, https://www.reuters.com/article/us-cambodia-politics/cambodian-court-orders-seizure-of-opposition-partys-headquarters-idUSKCN1GB158;
The New York Times, 07 May 2018, https://www.nytimes.com/reuters/2018/05/07/world/asia/07reuters-cambodia-politics.html.

7 Reuters, 9 May 2018, https://www.reuters.com/article/us-cambodia-politics-un/un-urges-cambodia-to-free-opposition-leader-calls-detention-arbitrary-idUSKBN1IA18V.

8 The Phnom Penh Post, 09 February 2018, https://www.phnompenhpost.com/national/extradited-shoe-thrower-sam-sokha-faces-two-year-prison-sentence.

9 The Phnom Penh Post, 07 May 2018, https://www.phnompenhpost.com/national/hun-sen-warns-dispersing-election-boycott-leaflet.

10 Reuters, 10 July 2017, https://www.reuters.com/article/us-cambodia-politics/cambodia-changes-election-law-ahead-of-2018-vote-idUSKBN19V0F4.

11 OHCHR, "UN experts say constitutional changes in Cambodia impinge on democracy", 20 February 2018, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22674&LangID=E.

12 *Id.*

13 The Phnom Penh Post, 22 May 2018, https://www.phnompenhpost.com/national/second-man-charged-under-countrys-lese-majeste-law.

14 Human Rights Committee, "Concluding observations of the Human Rights Committee – Ukraine", CCPR/CO/73/UKR, 12 November 2001, art. 22(a), https://undocs.org/CCPR/CO/73/UKR;

Furthermore, the politically-motivated harassment and restriction of leaders, members, and supporters of CNRP orchestrated by the government and Supreme Court violates ICCPR articles 9(1) (freedom from arbitrary detention), 21 (right of assembly), 22(1) (freedom of association), 25 (right to political participation), and 26 (prohibition of discrimination based on political opinion).[15]

Finally, the persecution of Cambodian HRDs and CSOs and legislation that enables it are inconsistent with the UN Declaration on Human Rights Defenders as well as the Paris Peace Agreements which bind Cambodia to "support the right of all Cambodian citizens to undertake activities which would promote and protect human rights and fundamental freedoms...."[16]

III. Recommendations

HRN is deeply concerned about Cambodia's continuing campaign of suppression against critical voices, and we urgently call on the Cambodian government to:

- Drop unjustified charges and restrictions against media outlets, political opposition, HRDs and CSOs, and ensure respect of rights and freedoms;
- End the politically motivated detention of the two RFA journalists, Yeang Sothearin and Uon Chhin; of CNRP leaders Kem Sokha and Sam Rainsy; and of human rights activists Sam Sokha and Moeun Tola;
- Substantively revise or abolish repressive legislation, including LANGO and amendments to the Law on Political Parties, the Constitution, and criminal law, to ensure Cambodia's law is consistent with its obligations under international law.

Additionally, HRN requests relevant state governments to:

- Take effective measures against the Cambodian government to support implementation of the Council's relevant resolutions on Cambodia;
- Suspend assistance to Cambodia's electoral institutions and funding related to the 2018 election and make public statements affirming that this election cannot be considered a free and fair election following the forcible dissolution of the main opposition party.

Human Rights Committee, "Concluding observations of the Human Rights Committee – Sri-Lanka", CCPR/CO/79/LKA, 01 December 2003, art. 17, https://undocs.org/CCPR/CO/79/LKA.

15 ICCPR, 16 December 1966, http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.

16 UN General Assembly, "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", Res. 2200 A (XXI), A/RES/21/2200 annex, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf;
Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, 23 October 1991, art. 15(2)(a), http://treaties.fco.gov.uk/docs/pdf/1991/TS0111.pdf.

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Human Rights Council
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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09592(E)
1809592

Please recycle

The continuing genocidal situation of the Hmong people in the Lao People's Democratic Republic*

International Educational Development, Inc. and the Association of Humanitarian Lawyers continue to be deeply concerned about the dire situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). To that end, we have submitted a number of written statements and urgent action appeals, including to the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities. The situation invokes the "Responsibility to Protect (R2P) principles -- the Hmong people are at risk of extermination. Given both the history of the Hmong people and their more than 40-year-long grave situation, they have the right to self-determination as the only way to realize their basic human rights.

At the 37th session of the Council, we again spoke of the intention of the Laotian authorities to eliminate the Hmong people before the Council can take measures. As the session was ending, the Laotian Army attacked and killed a group of Hmong who they claimed were trying to communicate with the Hmong people in the jungle. The authorities apparently stated that this was a warning to all traitors of Miao behavior (note that the term Miao" is disrespectful) and that they shall be killed to terminate them from this land.

We have shown the Council other actions of the Laotian authorities that illustrate the intention to eliminate the Hmong people before there is any international action. For example, the Hmong people, especially those now in the Phou Bia area, face constant military actions against them due to their label as enemies of the State. As a consequence the Hmong are forced to relocate and hide on a continual basis. Food and medicine are in short supply as the Laotian authorities have continued to block these items Because of the constant moving there are no stable places of residence and even temporary structures are destroyed by the Lao forces. Agriculture is difficult if not impossible, compounding the serious food shortages due to the blockades and to the fact that when the Lao forces find fruit trees or crops they destroy them. This is a crime against humanity as set out in Article 7 (1)(b) and (2)(b) of the Rome Statute that identify creating conditions of life that are extremely difficult and the denial of food and medicine as elements of the crime of extermination.1

In exercising the right of reply following our statements at earlier sessions of the Council, the Laotian representative asserted to the Council that under Laotian law, all groups enjoy the same basic rights, and all live in harmony. While that may be true for other ethnic groups in the country, it is definitely not true for the Hmong people as we have shown in our submissions -- they have been subjected to genocidal conditions since the end of the Vietnam War. At present their numbers in Laos are catastrophically reduced with hundreds of thousands living in exile.

As an interim measure before the Hmong people are granted their right to self-determination, we believe it is imperative for the international community to establish a special protected area guarded by international actors in the Hmong traditional area. This type of "safe haven" would allow the surviving Hmong people to congregate, to receive humanitarian aid and to communicate with the outside world unfettered by the Laotian authorities. The safe haven should be located near an international border to facilitate entrance and egress of interested parties such as humanitarian aid workers, the media and, of course, relatives. Failure to establish such an area is likely to encourage the Laotian authorities to continue their hostile actions against the surviving Hmong.

As we indicated in our oral statement in September 2016, the United States government pledged money to help clean up the unexploded ordnance left over from the Vietnam War. A United States representative visited in December 2016, but was not allowed into the Hmong area – where much of the unexploded ordnance is located. The current American administration appears to not follow up on this issue and we fear the Laotian authorities will use the unexploded ordnance project to the detriment of the Hmong peoples. The Council and the international community as a whole should address this situation.

1 The Lao People's Democratic Republic has not ratified the Rome Statue or Regulations, but we refer to its previsions to underscore the gravity of the offenses by the authorities against the Hmong people.

Conclusions and recommendations

It is patently clear that the Laotian authorities have no intention adequately to address the situation of the Hmong people. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address their genocidal situation. Laos has to date not allowed on-site investigations. While the treaty bodies have addressed the situation, they can only issue early warnings and urgent actions and we hope that the Council, the General Assembly or the Security Council take affirmative action, which to date has not occurred. The UPR process served to illustrate or identify violations, even serious ones, but it alone is not an action procedure. The International Committee of the Red Cross can undertake relief efforts, but in this case are restrained from doing so by the relevant authorities.

As a result of the urgency of this situation, we recommend that the following actions be undertaken:

1. The High Commissioner should undertake to establish a safe haven for the Hmong people as soon as possible. Alternatively, the High Commissioner could request the Secretary-General to act in this regard. The Council should support such action.
2. The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible due to the genocidal situation and should recognize the right to self-determination of the Hmong people.
3. The Secretary-General should consider other action on this situation such as encouraging or instigating independent investigation, including the issue of unexploded ordnance in the Hmong areas.
4. The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should request on site visits to the Hmong areas in Laos, either alone or in concert.
5. Given that nearly all special procedures are highly relevant to the situation in the Hmong areas of Laos, the Council should consider requesting the High Commissioner to undertake action such as establishing a commission of inquiry as has been established in other situations. In the alternative, the Council should establish its own commission of inquiry or appoint a special rapporteur or independent expert.

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*Association of Humanitarian Lawyers, NGO without consultative status, also shares the views expressed in this statement.

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Human Rights Council
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Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Rights-Based, Victim-Centered Approach to Cholera in Haiti

For six years, the UN denied responsibility for the Haiti cholera epidemic, in the face of overwhelming scientific evidence—including the conclusions of the UN's own experts-- that UN peacekeepers had introduced the disease to the country. This denial was rightly met with global outcry; the UN Special Rapporteur on Extreme Poverty & Human Rights labelled it "*morally unconscionable, legally indefensible, and politically self-defeating.*" The refusal to accept accountability in Haiti hurt both the victims and the UN's credibility worldwide.

We welcome the important strides that the UN has since made to ensure victims are provided their right to an effective remedy. We were encouraged by the Secretary General's apology to the Haitian people in 2016 and its launch of a new plan to eliminate cholera and redress victims (the 'New Approach to Cholera in Haiti'). In making this commitment, the UN promised to provide a "material assistance package" to those most affected by cholera in order to "express the organization's regret" and "redress harm caused". The organization pledged to "put victims at the centre of the work" and consult with them in developing the assistance package.

It is deeply concerning, however, that eight years after the outbreak and almost eighteen months after the launch of the New Approach, the UN is retreating again from accountability. Meaningful consultations with victims have not occurred. Instead, the UN's piloting of a "symbolic" victim assistance project has been framed within Haiti's overall development agenda, consulting local leaders on their development priorities while publicly highlighting all perceived challenges of the individual payment approach. This contrasts with a rights-based approach which requires consulting victims on their needs and perspectives while canvassing both community projects as well as individual payments. While promoting Haiti's overall development is important, it is not a substitute for the remedies that cholera victims are entitled to under law.

Critical Opportunity for Engagement

We believe that the UN must prioritize human rights and return them to the center of its discussions on cholera response. Cholera victims have always articulated their demands on the UN in terms of their human rights. Legal scholars, human rights organizations and political leaders from around the world have insisted that victims have the right to an effective remedy, pursuant to the UN's own legal obligations and established human rights principles.

Several UN human rights mandate holders have underscored the need for victim remedies, including multiple special rapporteurs in letters addressed to the Secretary-General,[1] as well as High Commissioner Navi Pillay who called for compensation for Haiti's cholera victims in 2013. The engagement of the human rights system was critical to convincing the UN to apologize and announce a more just response in 2016.

However, since the launch of the UN's New Approach, there have not been any public statements from any UN entity, supporting the victims' human right to a remedy. This unilateral abandonment of the victims' rights recognized by the promises of 2016 shows a lack of commitment to universal ideals of human dignity and should be an embarrassment for the organization with a unique mandate from the international community to promote and protect all human rights. This silence by UN entities negates and denies the value of human rights and is appalling for many of the people the UN is meant to serve. Given the current geopolitical context, this trend is unlikely to change without considerable pressure being applied.

[1] Leilani Farha, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Philip Alston, Special Rapporteur on extreme poverty and human rights; Gustavo Gallón, Independent Expert on the situation of human rights in Haiti; Dainius Puras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Léo Heller, Special Rapporteur on the human right to safe drinking water and sanitation.

Recent troubling developments to the New Approach coupled with struggles in fundraising, mean that the UN's response to the cholera crisis is at a precarious point. There is a real risk that progress made in the last eighteen months may unravel, leaving a series of broken promises that will compound the damage to the UN's credibility and call into question the sincerity of the UN's efforts to improve accountability of peacekeeping operations to victims. At this regard, we strongly encourage the Office of the High Commissioner to exercise its leadership and maximize the opportunity by speaking out publicly on the UN's lack of a rights-based, victim-centered approach to cholera in Haiti.

While noting the strides made by the UN, we urge the OHCHR to speak out on the UN's inadequate follow through on its commitments made in the New Approach. Although we recognize the challenges to properly fundraise the New Approach given its voluntary nature and the competing demands within the UN system, it is essential that the UN's credibility requires that its promises be kept and that human rights are put at the center of its New Approach. This bears both on the ability of victims to obtain redress, and on the UN's own legitimacy as a promoter of human rights.

We also urge the OHCHR to underscore the UN's responsibility to provide meaningful compensation for victims pursuant to established human rights principles and the UN's own legal framework governing third-party claims. While establishing collective p.ojects can be a form of reparation, projects alone do not sufficiently respond to victims' individualized harms or constitute adequate restitution. Victims have the right to an effective and transparent remedy and individual compensation is a principal component of the right to a remedy.

While various forms of reparations in the context of mass harms can be presented to victims, including collective remedies, a decision to abandon individual compensation cannot be made without victims. We urge the High Commissioner and his office to highlight the need for the UN to meaningfully consult victims regarding their perspectives and priorities. Cholera victims have long advocated for individual compensation as they desperately require financial assistance to recover from the devastating economic harms the epidemic caused their families and livelihoods. Eight years into the epidemic, victims continue to suffer gravely. Thousands of already extremely poor families who lost breadwinners or livelihoods from cholera still struggle to pay high medical and burial costs years later, while countless children became orphaned or were forced to leave school. While we acknowledge the challenges to providing victims with meaningful redress, engaging victims as partners in the New Approach is essential, both to ensure success in surmounting the obstacles and in ensuring that the result is perceived as just by the victims.

UN cholera accountability in Haiti is at a critical juncture and support by the UN Human Rights Chief in calling for a much-needed rights-based focus will help ensure that the UN's promises transform into concrete results for the people of Haiti and for the UN.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Framework Convention Alliance for Tobacco Control, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Tobacco and Human Rights

On 23 June 2017, the Human Rights Council adopted Resolution HRC/RES/35/23. The Resolution urges States to work towards the full implementation of all Sustainable Development Goals and targets with a view to contributing to the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including Target 3.a "strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries as appropriate".

Tobacco remains the leading cause of global preventable death, killing over 7 million annually from tobacco consumption and exposure to tobacco smoke and costing the global economy nearly two percent of its GDP. The Framework Convention Alliance respectfully requests that subsequent HRC Resolutions and processes addressing the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development consider:

- Recalling that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right as enshrined in, inter alia, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, as well as, with respect to non-discrimination, in the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

- [Welcoming the adoption by the 17th World Conference on Tobacco or Health of the Cape Town Declaration on Human Rights and a Tobacco-free World, which made specific reference to resolution 35/23 and to Sustainable Development Goal 3 and called upon the Human Rights Council to take into account the threat tobacco poses to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.]

- Addressing the impact on the right to health of the tobacco epidemic, which causes seven million preventable deaths annually and costs the global economy nearly two percent of GDP, creating a substantial barrier to economic and human development.

- Encouraging the Special Rapporteur, while considering the many ways towards the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, to pay particular attention to the obligation of States to address human rights implications over the whole life-cycle of tobacco growing, manufacturing, marketing, distribution, consumption and post consumption.

- Encouraging States, when reporting on the implementation of the right to health under human rights treaties, to provide information on measures taken and challenges faced in implementing the FCTC and reducing the harm caused by tobacco and on challenges faced that affect human rights.

The Framework Convention Alliance wishes the 38th session of Human Rights Council every success and sincerely hopes that under the guidance of its President, Ambassador Vojislav Šuc, it will continue to promote the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

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Human Rights Council
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Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Al Mezan Centre for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Israel Entrenches its Illegal Annexation of Jerusalem and the Forcible Transfer of Palestinians*

The announcement made by the United States (US) on 6 December 2017 to move its embassy to Jerusalem and officially recognize Jerusalem as the capital of Israel, in stark violation of international law, consolidated its policy towards Israel's occupation of East Jerusalem and annexation of West Jerusalem. On 21 December 2017, in response to the US declaration, the United Nations (UN) General Assembly adopted resolution ES-10/19, with 128 countries in favour and nine against, declaring any action to alter the character of Jerusalem "null and void."1 The aforementioned resolution "affirms that any decisions and actions which purport to have altered the character, status or demographic composition of the Holy City of Jerusalem have no legal effect [...] and must be rescinded in compliance with relevant resolutions of the Security Council."2 The resolution also calls on "states to refrain from the establishment of diplomatic missions in the Holy City of Jerusalem, pursuant to Council resolution 478 (1980)."3

While the international community articulated a clear position that condemned the US recognition of Jerusalem, the US government proceeded to relocate its embassy on 14 May 2018. In the aftermath of the relocation, Paraguay and Guatemala proceeded with the unlawful relocation of their own embassies to Jerusalem, while Romania and the Czech Republic (both member states of the European Union) and Honduras have also announced plans to relocate to Jerusalem. These unlawful moves not only serve to recognize Israel's illegal alteration in Jerusalem, entrenching Israel's illegal annexation of the city, they have also served to embolden Israel's forcible transfer of Palestinians from Jerusalem.

On 1 January 2018, the Israeli Parliament passed an amendment to the "Basic Law: Jerusalem, Capital of Israel". The amendment raises to 80 Knesset Members the majority needed to give up Israeli control over any part of Jerusalem. With the goal of achieving a Jewish demographic majority in the city, the Israeli government is planning to remove from Jerusalem's municipal jurisdiction Palestinian neighbourhoods already separated by the annexation wall, such as Kufr 'Aqab, Shu'fat Refugee Camp, and Anata, comprising some 140,000 Palestinians. The Israeli military has subsequently announced that it will take "security control" over these neighbourhoods. Meanwhile, the settlements of Ma'ale Adumim, Gush Etzion, Efrat, Beitar Illit, and Giv'at Ze'ev, amongst others in the Jerusalem periphery, containing approximately 150,000 settlers, are to be annexed and will act as sub-municipalities of Jerusalem, according to the so-called 'Greater Jerusalem' bills4 under consideration by Israel's Parliament.

In March 2018, the Israeli Parliament passed an amendment to the Entry into Israel Law (1952) that authorizes the Israeli Minister of Interior to revoke the Permanent Residency Status of Palestinian Jerusalemites claimed to have been involved in "terrorism" or who have allegedly committed acts that constitute "breach of loyalty". On 19 March, the Director of Land Registration at Israel's Ministry of Justice announced the mandatory opening of registration of lands in East Jerusalem whereas the Israeli cabinet approved the allocation of USD 14 million for land settlement process.5

Israel's Minister of Justice Ayelet Shaked was quoted as saying: "the start of land settlement of title and registration in East Jerusalem [is] a step toward promoting Israeli sovereignty and control over the city."6 She added that, "[t]he day before the strengthening of Jerusalem through the transfer of the American embassy to Jerusalem, and after decades of

1 UN General Assembly, General Assembly resolution ES-10/19, 21 December 2017.
2 *Ibid.*
3 *Ibid.*
4 Bill for the Jerusalem and Its Daughters Law, P/20/4386; Bill for the Jerusalem and Its Daughters Law – 2017 [5778], P/20/4109; and Proposed Greater Jerusalem Law, P/20/4158.
5 Khalil Tofakji, The Department of Maps and Geographic Information Systems at the Arab Studies Society, 20 March 2018.
6 Ynet News, "Government allocates NIS 2.5 billion to bolster Jerusalem", 13 May 2018, available at: https://www.ynetnews.com/articles/0,7340,L-5259682,00.html.

Israeli sovereignty in eastern Jerusalem, we are strengthening the city and actually applying sovereignty through the program of land regulation in East Jerusalem".7

This policy violates Palestinian rights and breaches international humanitarian law, whereas this situation almost always results in the conversion of lands into "state property" due to lack of availability of "proof of ownership" by Palestinian current landowners. This will also allow the re-implantation of the Absentee Property Law, which allows the state to seize, manage, lease, transform, and sell the properties of Palestinians who are declared "absentees".8

On 13 May 2018, the Israeli cabinet voted to allocate USD 56 million9 to compel Palestinian schools, through financial incentives, to teach the Israeli curriculum. The Israeli Ministry of Education approved a plan in March 2018 to only provide financial support to schools that teach the Israeli curriculum in East Jerusalem, as part of the "Israelization" of East Jerusalem education, implemented since the start of its occupation. The Israeli cabinet also earmarked USD 13.1 million for excavations in the neighbourhood of Silwan, which according to the remarks accompanying the plan, will continue the "research and development of sites in ancient Jerusalem via ongoing government activity."10

Israel's Annexationist Policies and Practices in Annexed Jerusalem

Israel has used its domestic law and institutions to unlawfully alter the character, status, and demographic composition of Jerusalem in favour of an Israeli-Jewish majority, including through the forcible transfer of Palestinians.

- Since early 2018, Israel has pressed ahead with the construction of at least 3,811 settlement outposts on West Bank land, including, at least 32 in Jerusalem.11

- Currently over 210,000 Israeli settlers reside in 15 settlements inside occupied East Jerusalem,12 in violation of international law. Settlers harass Palestinian residents, often serving as the cause of forced evictions, and abuse them, including through violence, whilst under the protection of contracted private security firms. Israeli police, who themselves rampantly harass, arrest, and abuse Palestinians in Jerusalem, do little to interfere, prevent, or investigate these occurrences.

- Since 1967, approximately 14,630 Palestinians have had their residency status revoked,13 and in conjunction with the continued Israeli occupation of East Jerusalem, approximately 76% of Palestinians live in poverty, with rates as high as 83.4% amongst Palestinian children.14

- There is a shortage of 2,247 classrooms in Palestinian schools15 due to restrictions on building, while the Palestinian education system suffers from chronic understaffing linked with Israel's denial of permits that would allow Palestinian teachers from the rest of the West Bank to teach in East Jerusalem.

- As of 2017, an estimated 33% of Palestinian children in Jerusalem do not complete 12 years of education.16

- Palestinians are further prevented from developing their part of the city, as Israel imposes severe building and permit restrictions. Nearly 40% of East Jerusalem homes have been built without permits, rendering them

7 Haaretz, "Cabinet Approves Billions to Ramp Up Israeli Sovereignty in East Jerusalem", 17 May 2018, available at: https://www.haaretz.com/israel-news/.premium-cabinet-oks-billions-to-ramp-up-israeli-sovereignty-in-e-j-lem-1.6078168.
8 Absentee Properties Law 5710 – 1950, available at: https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/04-Absentees-Property-Law-1950.pdf
9 Supra note 7.
10 France 24, "Israeli cabinet allocates $2 billion to expand sovereignty in East Jerusalem", 14 May 2018, available at: https://www.i24news.tv/en/news/israel/174662-180514-israeli-cabinet-allocates-2-billion-to-expand-sovereignty-in-east-jerusalem
11 Department of Maps and Geographic Information Systems at the Arab Studies Society, Database, 17 May 2018.
12 Khalil Tofakji, Settlement in Jerusalem, 1 September 2017, available in Arabic at: https://drive.google.com/file/d/1PQGZ1oHiWTtSh1k6_CS10OSObHo-pitm/view.
13 HaMoked, "Quiet Deportation", 10 April 2018, available at: http://www.hamoked.org/Document.aspx?dID=Updates1975.
14 ACRI, "East Jerusalem 2017: Facts and Figures", 12 May 2017, available at: https://www.acri.org.il/en/wp-content/uploads/2017/05/Facts-and-Figures-2017.pdf.
15 *Ibid.*
16 Supra note 14.

vulnerable to demolitions and placing the families under threat of displacement. Between 2004 and 2018, 807 structures were demolished, displacing 2,880 Palestinians, including 1,510 children.17

- Since November 2014, out of 61 homes punitively demolished and sealed across the OPT, 16 homes were in occupied East Jerusalem, displacing 63 Palestinians therein.18

Accordingly, we call on the member states of the UN Human Rights Council to:

i. Refrain from directly or indirectly recognizing, or assisting Israel's practices of unlawful annexation of Jerusalem;

ii. Take effective steps to end Israel's annexation of Jerusalem and occupation of East Jerusalem and the rest of the occupied Palestinian territory, in line with their obligations as third states;

iii. Demand that the international community fulfil its obligations under international law to ensure that Israel respects international humanitarian law in the occupied Palestinian territory, notably under Common Article 1 to the Geneva Conventions, and take measures to end all forms of collective punishment, including punitive house demolitions, imposed on the protected Palestinian population therein;

iv. Intervene immediately to prevent Israel from applying the announced 'land settlement of title and registration policy', which will result in the permanent appropriation of Palestinian land by Israel in flagrant violation of international law; and

v. Call on the Office of the High Commissioner for Human Rights to make public the database of businesses illegally operating in and profiting from Israeli settlements in the occupied Palestinian territory, including in and around occupied East Jerusalem, as a step towards accountability and ending corporate complicity in Israel's unlawful settlement enterprise.19

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*Civic Coalition for Palestinian Rights in Jerusalem, NGO without consultative status, also shares the views expressed in this statement.

17 Statistics from Al-Haq's Monitoring and Documentation Department, available at: http://www.alhaq.org/images/thumbnails/images/stories/Images/House%20demolition%20statement_Final%205%20March%202018.pdf.

18 Ibid.

19 In its March 2016 session, the UN Human Rights Council adopted resolution 31/36 which aims to produce a database of companies doing business in Israeli settlements to highlight corporate complicity in the Israeli occupation.

United Nations A/HRC/38/NGO/116

General Assembly

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09582(E)
1809582

Please recycle

BANGLADESH: Government escalates extrajudicial executions declaring 'war on drugs'

The Asian Legal Resource Centre (ALRC) requests the attention of the Human Rights Council to the pattern of extrajudicial executions in Bangladesh. The incumbent government of Bangladesh has escalated extrajudicial executions in the country with new excuses.

Back in 2004, extrajudicial executions were made an official tool with the excuse of 'controlling crime'. The law-enforcement agencies keep using the extrajudicial means for eliminating the opposition activists, and others, fitting to the requirements of the ruling party of the day. Successive governments actively contributed to the process of institutionalizing this crime with impunity to the perpetrators. The key perpetrators, who should have been held for command responsibilities, have been rewarded in various forms. As a result, the law-enforcement agencies have been available for hire to assassinate people. High amount of monetary payments to the law-enforcement agencies could guarantee the elimination of a rival – in political or financial disputes.

Since the July 2016 extremist attack at a restaurant in Dhaka the law-enforcement agencies have been killing people, including women and children, in the pretext of 'eliminating Islamic militancy' without credible investigations before and after such operations were conducted, bypassing the criminal justice mechanisms of the country.

Case-1: On 28 March 2017 at around 1:30 am, a team of the Special Weapons And Tactics (SWAT) and a team from the Counter Terrorism and Transnational Crime Unit (CTTCU) of the Police cordoned off a two-storied residential house for 36 hours. The house, which the law-enforcement agencies termed as 'militants' den', was located at Borohat Abushah Baitul Madrassa Road at Nasirnagar in Moulvabazar. The law-enforcement agencies conducted 'Operation Hit Back' on the building. Later, the police recovered the bodies of seven persons from the house. The Police said that in the afternoon on March 29, the 'extremists' might have killed themselves by 'blowing up suicide vests'. Among the seven bodies recovered after the 'Operation Hit Back', four were of children. Of them, one was an infant, one was a two-year old, one was a seven-year old and another was a 10-year old. Two women were also found killed at the scene; of them, one was aged about 20-25 and the other woman was 35 years of age. The deceased man was also 35 years old.

Case-2: In another incident, on 11 May 2017, the law-enforcement agencies claimed that six suspected militants were allegedly killed when they blew up themselves with 'suicide vest' at Godagari of Rajshahi district. After conducting an operation titled "Sun Devil" the police made this claim. According to the police, a family of 'militants' was found residing in a tin-shed house. The deceased were Sajjad Ali (50), his wife Beli,(40), their sons Al Amin (30), and Mojaiyad (25), and their daughter Karima (28). The other deceased was Abdul Matin, a firefighter. According to the local people, Sajjad was a rural hawker, who used to sell cloths, and his two sons were agricultural workers.

Bangladesh's law-enforcement agencies have claimed a unique pattern of militancy where the alleged militants blow up themselves with their family members including wife and minor children instead of using their 'suicide vests' in crowded public places such as railway stations, shopping malls, stadiums, or bus terminals. Such claims are unprecedented in the recent history of militancy in the Asian region.

All killings in the pretext of 'fighting militancy' appears to be taken for granted as the government or the law-enforcement agencies do not have to face any consequence due to unbridled control over the judiciary. They neither have to face criticism in the mainstream media as a result of imposed censorships and self-censorships being practiced.

The government has now launched its 'war against drugs'. The incumbent Prime Minister Sheikh Hasina stated in a meeting at her official residence on 20 May 2018 that " - - - *You must have seen that operations against drugs have already started. We have delegated special responsibilities to all the law-enforcing agencies, intelligence agencies and RAB. Wherever there are drugs, tough measures will be taken...we are taking stringent measures.*"

The 'special responsibilities' that the Prime Minister refers to are actually orders given for conducting extrajudicial executions. Instantly, the law-enforcement agencies have been engaged in high number of murders using the excuse of 'gun battle' in the month of May 2018. The law-enforcement agencies have killed 52 people in the first 24 days of the month. Among them 49 were killed between May 15 and May 24. Of them, the Bangladesh Police killed 30 and the Rapid Action Battalion (RAB) killed 19. The situation appears to be insane on the ground as the number of extrajudicial executions rises everyday alarmingly.

The officials of the law-enforcement agencies claim that all the deceased persons were 'drugs peddlers'. According to the Police and the RAB, all these people were killed in 'gun fights' or 'gun battles' while allegedly found engaged in dealing with drugs. They also claim that the firearms and drugs are being seized from the crime scenes. In contrast, several families of the deceased have challenged the claims of the law-enforcement agencies.

Case-3: Four plain clothed people picked up Mr. Habibur Rahman on 17 May 2018 from the gate of Al-Falah Mosque of Chittagong city as soon as Habibur came out of the mosque after offering his mid-day prayers. Eyewitnesses informed about the abduction to Habibur's son Abdul Ali Rabbi, who prayed together with his father in the same mosque and came out few minutes later. The family went to the local offices of the law-enforcement agencies including the Kotwali Police, who denied of arresting Habibur. Later, the Rapid Action Battalion (RAB) announced that two suspected drugs dealers were killed in 'gun battle' on 17 May night while Habibur was one of the two victims. The family claims in a press conference at the Chittagong Press Club on 23 May that Habibur was fighting with his rivals over a land dispute with a group of influential people associated with the government and had several trumped up criminal cases against him. He was detained in prison in the trumped up cases and was released recently on bail. According to the family, there is another man named Habib Sheikh, who is allegedly a drugs dealer, supposed to be the actual suspect of RAB. However, a 'source' of RAB named Mosharraf Hossain misguided the RAB to save Habib Sheikh. After killing Habibur the RAB allegedly realised the mistaken identity and the misguiding by its source. Then, the RAB killed Mosharraf for misguiding the paramilitary agency, which consistently claimed that both Habibur and Mosharraf were drugs dealers.

Case-4: The police of Netrokona district picked up Mr. Amzad Hossain, an activist of the Jatiyatabadi Chhatra Dal (JCD) – student wing of the main opposition, Bangladesh Nationalist Party (BNP), from his house of Nagra Anandabazar village at 3:00 AM on 22 May 2018. Amzad's body was found near Bara Wari bridge on the bank of Konsha river after few hours. Amzad's family claims that the police and the ruling party people fabricated 13 politically motivated cases against him because of his activism as an activist of the opposition. He was detained on several occasions in those trumped up cases and continued protesting against the government each time after being freed on bail. The government has used the excuse of 'war on drugs' to finish him off. Amzad's brother Mahid Ahamed Ansari gave an interview to the Guardian newspaper of the United Kingdom. Since the interview was published in the newspaper's online edition on 25 May the police started chasing Mahid, who is currently hiding for his life.

Case-5: The Fulgazi police of Feni district killed two men named Sahmit Hossain Shamim – a farmer, and Moznu Mian Monir – an activist of the Jatiyatabadi Chhatra Dal of the opposition, Bangladesh Nationalist Party - in the night on 23 May 2018. According to the families, the police picked up both persons from home and sister's home, respectively. Later, the police demanded BDT 200,000 from Shamit's family and BDT 150,000 from Moznu's family. Both families were unable to pay such huge amount of bribes to the police. The two detainee's bullet riddled bodies were found in a field at Dakkhin Anandapur village – near Bangladesh – India border with Feni district in the early morning. The families are facing intimidations while they are living under surveillance of intelligence agencies and the police.

In all these cases, the law-enforcement agencies, especially the Police and the Rapid Action Battalion (RAB) have presented the same old story of 'encounter' accusing the victims as drugs dealers. They also claim that the so called drugs dealers' associates, who had ambushed at the crime scene before the arrival of the police or RAB, carried guns and opened fire at the law-enforcers, first, to provoke retaliation. In an alleged 'gun battle' the detained suspects receives bullet wounds causing deaths. All such 'operations' are conducted only in the night. The law-enforcement agencies have been telling the same pattern of story for around 2000 cases of extrajudicial executions in recent years.

These few cases briefly cited above are the tip of the iceberg in the context of Bangladesh's deeply rooted institutional inability to safeguard rights or afford redress. The cases expose the degree of lawlessness, coupled with inefficiency and non-professionalism of the law-enforcement agencies. It clearly indicates that the government of Bangladesh disrespects human rights at home and makes untrue statements in the Human Rights Council and other international platforms of its adherence to the human rights obligations.

The government has dragged down the criminal justice institutions to such a state that the law-enforcement agencies happily publicise the same style of stories for hundreds of cases. There is no credible institution in existence in the country to hold the perpetrators accountable for the ongoing spree of extrajudicial executions and other gross violation of human rights such as enforced disappearances. The incumbent government, which lacks legitimacy without having the people's mandate and retains power relying on the lethal force of the law-enforcement agencies, encourages the perpetrators through guaranteeing impunity and rewarding them in various ways.

The government has allegedly launched the 'war on drugs' and escalated extrajudicial and arbitrary executions for the purpose of deepening fear in the society and silencing the people in the lead up to the general elections this year. The people and the opposition parties have been demanding for a credible and inclusive general election under an independent caretaker government, which the incumbent Prime Minister Sheikh Hasina always rejects. She is accused of replicating the January 2014 style sham election when the ruling party won more than half of the parliamentary uncontested to renew her term in office. In one hand, there is not institution before which the government may be held accountable as there is no 'opposition' in the parliament. On the other hand, the government invests its utmost efforts to invite and enjoys applauses from the international community for housing the Rohingya refugees. In today's Islamophobic global political context, a government can comfortably hide its own grave human rights records behind the excuse of 'fighting militancy' and 'extending generosity to the Rohingya refugees' who survived genocide in Myanmar.

The ALRC urges the Council to assess Bangladesh's domestic human rights situation carefully and comprehensively and break its prolonged silence. The Member States and Observer States can check the ground realities of Bangladesh through their missions in the country and assist the Council and the Special Procedures' mandates to address the situation so that the spree of extrajudicial executions and other gross violations are dealt with appropriately and promptly for the objective of affording justice to the victims and preventing the recurrence of the crime.

United Nations A/HRC/38/NGO/117

General Assembly

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 5
Human rights bodies and mechanisms

Written statement* submitted by the Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09674(E)

1809674

Please recycle

Funding Our United Nations

The Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations (*Co*NGO) 26th General Assembly meeting in Geneva, 1-3 March, 2018:

- Underlining its strong belief in the principles of the United Nations Charter and the central role the United Nations must play in shaping a more just and equal world,
- Noting the decrease of resources for the functioning of the United Nations in the biennial 2018 to 2019 budget of the United Nations adopted on 24 December, 2017,
- Alarmed over the negative effects of the continuous shrinking of the regular budget of the United Nations,
- Considering that measures to reverse this dangerous development must be of highest priority for Member States and the worldwide civil society,
- Reaffirming that the United Nations Sustainable Development Goals (SDGs) are an unprecedented opportunity for the United Nations, individual governments and civil society worldwide to come together to actively address the range of problems confronting humanity,
- Underlining the vital role the United Nations System can and must play in fostering, managing and coordinating the achievement of the SDGs, engaging and building on the commitment, competence and responsibility of civil society organizations worldwide,
- Stressing the concomitant need for the United Nations System to be adequately resourced—in finance and personnel—to be able to fulfill the multiple tasks that can only be effectively undertaken by this single universal world institution,
- Deploring strongly the constant decreases of UN budgets over several years despite increased workload,
- Underlining that the shrinking of the regular budget resources of the United Nations is the greatest threat to the efficient functioning of the world organisation,
- Further stressing the negative effects of the reduction of resources for public information and the participation of and consultation with non-governmental organisations in the work of the United Nations,
- Calls on governments to publicly commit to adopting a sufficiently increased regular budget for the next budget period, reversing all recent trends to seek economies and reductions at the expense of programmes that require multilateral action,
- Further calls on governments to support and engage fully with the organs and agencies of the United Nations System, recognizing that withdrawal from multilateralism is a self-inflicted wound that opens the door to unilateralism which has often had historically tragic consequences,
- Commends the initiatives by the CoNGO Board, Substantive Committees and Member organisations to alert the public on the UN financial crisis through statements and public meetings,
- Recalls the consensus position adopted by the NGO Millennium Forum in May 2000 that the regular budget of the United Nations could be doubled immediately with good effects, and
- Mandates the CoNGO Board to engage and mobilise in partnership with the worldwide civil society community to strengthen its advocacy with governments and all relevant actors to provide the United Nations System with the resources it so justifiably needs.

Resolution adopted by the 26th General Assembly of *Co*NGO—The Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations—held in Geneva, 1-3 March, 2018 CoNGO is an international NGO in General Consultative status with UN ECOSOC.

Issued on behalf of *Co*NGO by:
Liberato C. Bautista, *Co*NGO President
25 May 2018

For inquiries: Email: president@ngocongo.org

United Nations A/HRC/38/NGO/118

General Assembly

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by the International Youth and Student Movement for the United Nations, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809675

Please recycle

Recognizing and Combating Afrophobia*

The International Decade for People of African Descent which has been declared by the UN General Assembly for the period 2015-2024 represent an important achievement in the process of implementing the Durban Declaration and Programme of Action. The International Decade must be used effectively to combat racism against people of African Descent in every respect in the spirit of "Recognition, Justice, Development". At every stage of implementing the Programme of Activities of the Decade it must be stressed that the full and effective implementation of the DDPA is an indispensable and integral part of the realization of the Decade. All attempts to erase the full and effective implementation of the DDPA from programmes to implement the Decade should be strongly rejected.

It should be noted that the Programme of activities for the implementation of the International Decade adopted by consensus by the General Assembly in its second paragraph stress that "the implementation of the programme of activities for the International Decade is an integral part of the full and effective implementation of the Durban Declaration and Programme of Action and in compliance with the International Convention on the Elimination of All Forms of Racial Discrimination as the principal international instruments for the elimination of racism."

Furthermore the Programme of Activities in its first paragraph states that: "The International Decade for People of African Descent, to be observed from 2015 to 2024, constitutes an auspicious period of history when the United Nations, Member States, civil society and all other relevant actors will join together with people of African descent and take effective measures for the implementation of the programme of activities in the spirit of recognition, justice and development"

We welcome the active use of the term "Afrophobia" by the High Commissioner for Human Rights for the first time in his address to the Working Group of Experts on People of African Descent on April 1, 2015 and on several successive occasions.

The International Youth and Student Movement for the United Nations (ISMUN) together with the World Against Racism Network (WARN) has spearheaded the promotion of the Afrophobia term in the UN Human Rights mechanisms and consider the growing acceptance of this term in the UN Human Rights system as important.

In its resolution 21/33 adopted on 28 September 2012 the Human Rights Council deplored " the special form of discrimination faced by people of African descent known as 'Afrophobia'".

The affirmation by the Human Rights Council of the term Afrophobia was in response to the recommendations of the Working Group of Experts on People of African Descent at its tenth and eleventh sessions as proposed to the Working Group by the International Youth and Student Movement for the United Nations with the support of the World Against Racism Network. In the report of the Working Group of Experts on People of African Descent from its twelfth session adopted on 26 April 2013 the Working Group stated that "The recognition by the Human Rights Council in its resolution 21/33 of the term "Afrophobia", as had been recommended by the Working Group, requires an active and systematic follow-up in order to assure the full implementation of this important assertion of the special and unique form of discrimination faced by people of African descent and assuring its equal use with analogous terms that are used to address the stigmatization and prejudice against ethnic, religious and other vulnerable groups."

We hope that the group of countries, the European Union, which has up to now objected to the introduction of the term "Afrophobia" both in negotiations on resolutions and in statements at the Council will be able to reconsider its objections. We are i.a. referring to the statement at the Human Rights Council on 27 September 2011 where the EU stated that "establishing a hierarchy of those affected by racial discrimination is not acceptable. Therefore the EU rejects the introduction of potentially harmful terminology as afrophobia". Regrettably the EU continued objecting to the Afrophobia term at the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action at its thirteenth session in October 2015 and prevented the Working Group from expressing its appreciation of the active use of the Afrophobia term by the High Commissioner.

In the context of the above it should be noted that the "Afrophobia" term has gained an increased use in European countries and at the international level and also been included in government ordinances relating to work against discrimination in at least one EU country, Sweden, without "harmful" consequences. The term is for example actively used by the Swedish National Council for Crime Prevention and the Swedish Minister for Integration of the previous government commissioned the Multicultural Centre to conduct a systematic review of the current situation on afrophobia experienced by Swedes of African descent and which report was presented on February 3, 2014. The report indicated that Afrophobia, discrimination against persons of African descent, is widespread and a problem in Sweden and that the use of the Afrophobia term will hopefully help the government to better address the situation. When the newly elected Swedish Prime Minister presented his inaugural address to the parliament on October 3 2014 he included the fight against Afrophobia in his government programme. This demonstrates the importance of this form of recognition of discrimination against people of African descent.

It can furthermore be noted that the European Parliament Anti-Racism and Diversity Intergroup (ARDI) composed of Members of Parliament from different parties has formed a special Working Group on Afrophobia chaired by one of its Co-Presidents. On 5 December, 2017, the High Level Group for Racism, Xenophobia and other forms of Intolerance of the European Union held its first official discussion on Afrophobia which should be an important breakthrough for the recognition of the Afrophobia term in the EU. In that context the Commissioner for Justice, Consumers and Gender Equality, Věra Jourová, stated that: "This time, the EU High Level Group is focusing on antigypsyism and afrophobia. These are two worrying trends which are still raising very serious concerns, so it's important to discuss ways to combat them." Furthermore the Coordinator of Anti-Racism and Diversity Intergroup (ARDI), Alfiaz Vaiya, pointed out that: "For the first time, the European Commission held a specific session on Afrophobia during the fourth High Level Group on Racism, Xenophobia and other forms of Intolerance on December 5th which brought relevant actors and experts who have a direct role in dealing with legislation and policies related to its work. The High Level group is important given the rise of racism, xenophobia and intolerance across the EU and Commissioner Jourova and colleagues from DG JUST should be commended for initiating it as well as for their excellent work and commitment in this field. The focus on Afrophobia is especially welcomed given the Council of Europe's Commissioner for Human Rights comment piece on Afrophobia and presentation of the EU Fundamental Rights Agency (FRA) EU MIDIS results."

It is our hope that the above mentioned developments testifying to a broad recognition of the Afrophobia term will facilitate a consensus process towards positive action at the Human Rights Council and for strengthened activities in this regard by the OHCHR.

Anti-black racism targeted against people of African descent was the first form of discrimination to be given a name when the term "Negrophobia" was introduced in the United States in the 1830:ties and used in the campaigns against slavery and for racial equality. "Negrophobia" for example predated the appearance of "anti-Semitism" term by many decades. Afrophobia is only a modernized, broadened and more inclusive form of the older outdated term.

In the United Nations the "negrophobia" term was first included in the mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to "examine according to his mandate incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, negrophobia, anti-Semitism, and related intolerance" as adopted by the Commission on Human Rights at its fiftieth session in 1994. The "negrophobia" term disappeared in connection with the World Conference Against Racism and its early follow up for the only reason that any term including "negro" had become totally outdated and unacceptable, in particular in the English language. While the replacement of "negrophobia" with afrophobia was discussed in that connection, it did not take place and therefore deprived people of African descent the recognition it had previously had in listings of existing forms of discrimination. It is therefore a timely measure that the Human Rights Council and the Working Group of Experts on People of African Descent as well as the High Commissioner for Human Rights has taken to reintroduce this recognition of the special and unique form of discrimination that people of African descent face.

Regrettably there has been ill-considered efforts by some groups to question the active use of the Afrophobia term in the UN system despite the high degree of recognition it has received from People of African Descent, NGOs, Governments, Human Rights Council Special Procedures, High Commissioner for Human Rights and many other actors. In this

connection it must be stressed that the Afrophobia term now has a track record of helping to energize the combat of racism against People of African Descent and direct increased attention to the full achievement of their human rights. No other single word term has been presented to fill the same function.

It would be appropriate and desirable that the existing Human Rights Council recognition of the Afrophobia term be strengthened and further developed by the Human Rights Council in a resolution at its 38th session.

The Human Rights Council should give high priority at its 38th session to implementing the Durban Declaration and Programme of Action and effectively and in good faith implementing the Programme of Activities for the International Decade for People of African Descent. The adoption by the Human Rights Council of a multiyear programme for global DDPA outreach and mobilization would be of utmost importance as it has been repeatedly requested by the General Assembly. Of great importance is that the General Assembly in its resolution 72/157 adopted on 19 December 2017 has explicitly asked the Human Rights Council to act on the matter of the multiyear outreach programme.
Recognizing and combating Afrophobia will significantly contribute to the full implementation of the important UN programmes against racism.

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*The World Against Racism Network (WARN), NGO without consultative status, also shares the views expressed in this statement.

United Nations A/HRC/38/NGO/119

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13 June 2018

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by Al-Haq, Law in the Service of Man and BADIL Resource Center for Palestinian Residency and Refugee Rights, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09676(E)
1809676

Please recycle

Seven Decades of Impunity: The United Nations Human Rights Council Must Hold Israel to Account

As Palestinians mark 70 years since the Nakba, 51 years of Israeli occupation, and 12 years of unlawful closure of the Gaza Strip, amounting to collective punishment, they also continue to face widespread silencing in international fora as part of efforts to undermine accountability and a just and lasting solution to their plight. The United Nations (UN) has long played host to Israel's silencing efforts, including through the smearing of Palestinian human rights organisations by Israel's UN ambassador,[1] Israel's denial of country visits to the occupied Palestinian territory by UN special rapporteurs,[2] and its lack of cooperation with UN mandates, including commissions of inquiry and fact-finding missions.[3] Recent efforts to remove item 7 on "the human rights situation in Palestine and other occupied Arab territories" from the agenda of the regular session of the Human Rights Council (or 'the Council'), and to prevent the public release of the database of businesses operating in and with Israeli settlements form part of a wider Israeli attempt to silence Palestinians, to deny them the realisation of their inalienable rights, and to entrench Israel's prolonged occupation of the Palestinian territory.

1. Efforts to Remove Item 7 From the Agenda of the Human Rights Council

Item 7 on "the human rights situation in Palestine and other occupied Arab territories" has been on the Human Rights Council's agenda ever since its creation in 2006, and even before when it was already a separate agenda item of the Human Rights Commission, the Council's predecessor. The maintenance of item 7 as a separate item on the Council's agenda is warranted by the unparalleled nature of Israel's prolonged occupation of Palestinian and Syrian territories since 1967 and by the need to regularly address the ongoing gross and systematic violations of international law committed therein, including the severe denials of Palestinians' right to self-determination and to permanent sovereignty over their natural wealth and resources.[4]

Yet, since March 2013 and for the past 15 sessions of the Human Rights Council, European Union (EU) Member States have effectively disengaged from participating in, and even attending, the Council session under agenda item 7, following Israeli pressure. Instead, EU Member States have undermined item 7 by addressing the human rights situation in the occupied Palestinian and Syrian territories under agenda item 4, which addresses the human rights situations requiring the Council's attention more generally.[5] More recently, efforts to entirely remove item 7 from the Council's agenda have been advanced by Israel, the United States of America,[6] and EU Member States, despite the fact that Israel's prolonged occupation continues to be entrenched with no end in sight. In doing so, Israel, the United States of America, and EU States aim to strip Palestinians of avenues of redress for the widespread and systematic violations committed against them, for which no domestic remedies exist, given Israel's longstanding and pervasive impunity.

2. Preventing the Public Release of the Database of Businesses Profiting from Israel's Settlement Enterprise

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[1] *See*, e.g., FIDH, "Open Letter to UN Secretary General Re Slandering statements against Palestinian NGOs Al-Haq and Al Mezan" (4 July 2017), available at: https://www.fidh.org/en/issues/human-rights-defenders/open-letter-to-un-secretary-general-re-slandering-statements-against.

[2] *See*, e.g., OHCHR, "Denial of access and lack of cooperation with UN bodies will not diminish scrutiny of a State's human rights record" (6 June 2017), available at: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21687.

[3] *See*, e.g., UN Human Rights Council, Report of the UN High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1, UN Doc A/HRC/31/40/Add.1, 7 March 2016, para. 50.

[4] Article 1, International Covenant on Civil and Political Rights (1966).

[5] Al-Haq, "Strengthening the European Union's Involvement at the United Nations Human Rights Council: Standing Agenda Item 7" (2 February 2016), p. 2, available at: http://www.alhaq.org/advocacy/targets/european-union/1011-strengthening-the-european-unions-involvement-at-the-united-nations-human-rights-council-standing-agenda-item-7-.

[6] *See*, e.g., U.S. Department of State, "Opposition to UN Human Rights Council Agenda Item Seven" (20 March 2017), available at: https://www.state.gov/r/pa/prs/ps/2017/03/268525.htm.

While the future of item 7 is being undermined, so are Palestinian efforts to pursue accountability within the Human Rights Council itself, including in relation to holding perpetrators of grave breaches responsible and ending corporate complicity for business enterprises prolonging and substantially profiting from Israel's occupation. On 24 March 2016, the Council adopted resolution 31/36 for the production of a database of business enterprises[7] involved in the activities identified by the report of the Council's fact-finding mission on Israeli settlements dispatched in 2012.[8] Human Rights Council resolution 31/36 further called for the database to be transmitted in the form of a report, as a human rights tool for civil society engaging with the Council.[9] On 13 February 2017, the UN High Commissioner for Human Rights recommended the deferral, of the report's consideration following pressure to undermine the accountability mechanism. Over a year later, the database is yet to be made public.

In March 2018, during the Council's latest 37th regular session, the Office of the High Commissioner for Human Rights (OHCHR) submitted its report pursuant to Council resolution 31/36, yet failed to release the database of businesses, rather limiting the report to the office's methodology in compiling the database.[10] While the report states that "OHCHR expects to provide the names of the companies engaged in listed activities in a future update",[11] there was no indication as to when such a future update will be made. Indeed, the delays and deferrals of the database's release fall within the context of increased attempts by States to undermine this tool as an effective accountability mechanism to end corporate complicity in Israel's occupation. Meanwhile, business enterprises continue to profit from Israel's unlawful settlement enterprise, stifling the Palestinian economy and livelihoods through the exploitation of Palestinian natural resources, while enjoying impunity for acts that may amount to war crimes.

3. Conclusion and Recommendations

On Friday, 18 May 2018, the Human Rights Council adopted draft resolution A/HRC/S-28/L.1 during its 28th special session on "the deteriorating human rights situation in the occupied Palestinian territory, including East Jerusalem", calling for the establishment of a commission of inquiry into the Israeli occupying forces' use of excessive force, including lethal force, against peaceful Palestinian protesters, since 30 March 2018, resulting in the injury of thousands and the killing of over a hundred Palestinians, in acts that may amount to war crimes.[12] As Israel's occupation continues to be entrenched, with corporations profiting from Israel's crimes, Israeli forces continue to violently suppress Palestinians' demands for the realisation of their right to self-determination, which includes the right of Palestinian refugees to return and permanent sovereignty over natural resources.

In this context, efforts to remove item 7 from the agenda of the Human Rights Council only serve to entrench Israel's decades-long silencing of Palestinians, while signalling a green light for the continued commission of widespread and systematic violations of international law in the occupied Palestinian territory. Accordingly, Al-Haq and BADIL call on Member States of the UN Human Rights Council to:

1. Support the maintenance of item 7 as a separate item on the agenda of the UN Human Rights Council to address the "the human rights situation in Palestine and other occupied Arab territories" until an end to Israel's

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[7] UN Human Rights Council, Resolution 31/36, UN Doc A/HRC/RES/31/36, adopted 24 March 2016.

[8] UN Human Rights Council, Report of the Independent International Fact-Finding Mission to Investigate the Implications of the Israeli Settlements on Civil, Political, Economic, Social and Cultural Rights of the Palestinian People throughout the Occupied Palestinian Territory, including East Jerusalem, 7 February 2013, A/HRC/22/63, para. 96.

[9] Al-Haq, "Palestinian Organizations Support Release of UN Database Report and Call for Third State Action to End Corporate Complicity in Occupation", available at: http://www.alhaq.org/advocacy/targets/united-nations/1178-palestinian-organizations-support-release-of-un-database-report-and-call-for-third-state-action-to-end-corporate-complicity-in-occupation.

[10] UN Human Rights Council, Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, UN Doc A/HRC/37/39.

[11] *Ibid.* para. 26.

[12] Al-Haq, "Al-Haq Attends 28th Special Session of the UN Human Rights Council on the Situation in Palestine, Calls for Accountability" (22 May 2018), available at: http://www.alhaq.org/advocacy/targets/united-nations/1255-al-haq-attends-28th-special-session-of-the-un-human-rights-council-on-the-situation-in-palestine-calls-for-accountability.

fifty-year occupation is achieved and the rights of Palestinians, including Palestinian refugees, are fully realised in accordance with international law;

2. Support efforts to ensure accountability, including for corporate complicity in Israel's occupation, by calling for the full and public release of the database of business enterprises established pursuant to Human Rights Council resolution 31/36;

3. Support an independent and transparent investigation into all violations committed in the occupied Palestinian territory, notably in the Gaza Strip since 30 March 2018, and ensure the effectiveness of the commission of inquiry established pursuant to draft resolution A/HRC/S-28/L.1 in holding Israeli perpetrators accountable;

4. Cooperate to bring to an end Israel's prolonged occupation, ensure accountability for all violations of international human rights and humanitarian law committed in the occupied Palestinian and Syrian territories, and impose sanctions against Israel in light of its pervasive and ongoing impunity.

United Nations A/HRC/38/NGO/120

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Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1810251

Please recycle

Mr. Michael Lynk's Non-Cooperation and Human Rights Protection Gap

United Nations Watch is deeply concerned by the protection gap fostered by Mr. Michael Lynk, and by his non-cooperation with significant sectors of civil society.

Despite the title of Mr. Lynk's post — "Special Rapporteur on the situation of human rights in the Palestinian territories" — in fact the text of the mandate makes clear that the rapporteur is charged only with investigating "Israel's violations."[1]

This results in a troubling protection gap by which Lynk has been able to justify monitoring only Israel's alleged violations of Palestinian rights while ignoring alleged Palestinian Authority and Hamas violations of Palestinian and Israeli human rights. Despite repeated urging by United Nations Watch, Mr. Lynk has taken no steps to remedy the protection gap.

United Nations Watch has raised this issue on numerous occasions in the past two years, including most recently in our Written Statement to the Human Rights Council at its 37th Session.[2]

Prior to that, at a UN press conference on October 26, 2017[3], a reporter confronted Lynk about his failure to address Palestinian human rights violations, noting that one of Lynk's predecessors, John Dugard had done so. Although United Nations Watch had publicized this fact in its widely circulated March 2016 report "Mandate to Discriminate," and in other writings including a letter to Mr. Lynk,[4] he pled ignorance to the journalist, saying "I am unaware of that."

At the same time, he added: "I am actively considering whether or not, when I make my next report, which will be in March to the Human Rights Council, that I will ask for my mandate to be expanded." Regrettably, this never happened. He never asked for the injustice and discrimination of his one-sided mandate to be remedied, and his response was merely to deflect legitimate questions.

In March 2018, instead of asking for the mandate to be expanded, as he had implied he would, Lynk submitted a report to the Council which, like his previous three reports, acknowledged abuses by Palestinian actors, but refused to address those abuses. Lynk wrote: "In the present report, the Special Rapporteur focuses on the human rights and humanitarian law violations committed by Israel, in accordance with his mandate."[5] His March 19, 2018 oral statement during the Council's interactive dialogue, similarly ignored Palestinian rights abuses, and failed to mention the discriminatory protection gap or to request the expansion of the mandate.[6]

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1 UN Watch, *Mandate to Discriminate* (March 10, 2016), https://www.unwatch.org/wp-content/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf.

2 Written Statement submitted by United Nations Watch, a non-governmental organization in special consultative status, U.N. Doc. A/HRC/37/NGO/106 (March 15, 2018).

3 Press Conference, Special Rapporteur for Palestine Michael Lynk, The situation of human rights in the Palestinian Territory occupied since 1967, UN Web TV (Oct. 26, 2017), http://webtv.un.org/meetings-events/treaty-bodies/watch/the-situation-of-human-rights-in-the-palestinian-territory-occupied-since-1967-press-conference-26-october-2017/5626030029001/?term=&lan=english.

4 *See, e.g.*, Letter from Hillel Neuer to Michael Lynk (Oct. 26, 2017), https://www.unwatch.org/report-u-n-palestine-investigator-calls-boycott-ignores-palestinian-rights-violations/.

5 Michael Lynk, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, U.N. Doc. A/HRC/37/75 (March 15, 2018).

6 ID: SR on Palestinian territories – 43rd Meeting, 37th Regular Session Human Rights Council, UN Web TV (March 19, 2018), http://webtv.un.org/search/id-sr-on-palestinian-territories-43rd-meeting-37th-regular-session-human-rights-council-/5754553994001/?term=2018-03-19&lan=English&cat=Meetings%2FEvents&sort=date.

Mr. Lynk Turned Blind Eye to Hamas Incitement to Violence

Mr. Lynk's statements since March 30, 2018 have systematically ignored the following key facts:

- Hamas has staged weekly riots along the border fence with Israel with the stated goal of securing the "right of return" for the Palestinian people. The "right of return" means the rejection of Israel's right to exist. It seeks to eliminate Israel through the "return" of millions of Palestinians to Israeli territory.
- Hamas's own leaders incited the masses with inflammatory rhetoric, urged women and children to approach the border fence, and even admitted the intention to breach the fence and massacre Israeli's.
- Hamas co-founder Mahmoud Al-Zahar openly admitted the riots were not peaceful resistance, saying: "When we talk about 'peaceful resistance,' we are deceiving the public."[7]

Moreover, Mr. Lynk's statements and reports have systematically ignored inflammatory Hamas statements, including:

- **Hamas leader Ismail Haniyeh**: "Palestine and Jerusalem belong to us…We will break the walls of the blockade, remove the occupation entity and return to all of Palestine."[8]; "Our people will outnumber the occupation and force it from our land."[9]
- **Hamas Gaza Chief Yahya Sinwar**: "We would rather die as martyrs than die out of oppression and humiliation…We are ready to die, and tens of thousands will die with us."[10]; "We will tear down the border and we will tear out their hearts from their bodies."[11]
- **Deputy Chief of Hamas in Gaza Khalil al-Hayya**: The purpose of the demonstration is "to draw the map of return in blood."[12]

On May 16, 2018, Hamas political bureau member Salah al-Bardawil admitted that 50 of those killed in border clashes a day earlier had been Hamas operatives, calling them "martyrs."[13]

Yet, Mr. Lynk continues to condemn only Israel and ignore Hamas's international law violations and its abuses of both Israeli and Palestinian human rights.

Mr. Lynk's May 15, 2018 statement on the Gaza riots "condemned Israel's excessive use of force towards largely unarmed demonstrators…" without once mentioning Hamas or the violence perpetrated by its operatives.[14]

Mr. Lynk also resorted to classical antisemitism, adding: "this blatant excessive use of force by Israel – an eye for an eyelash – must end." The phrase "eye for an eye" refers to an age-old Christian stereotype of a vengeful Old Testament Jew which has been renounced as antisemitic by Vatican II.[15] The representative of Human Rights Watch in Geneva apologized for reposting Mr. Lynk's antisemitic tropes.[16]

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7 *Senior Hamas Official Mahmoud al-Zahhar on Gaza Protests: This is Not Peaceful Resistance, it is Supported by our Weapons*, MEMRI TV (May 13, 2018), https://www.memri.org/tv/senior-hamas-official-mahmoud-zahhar-on-gaza-protests-this-is-not-peaceful-resistance.

8 Khaled Abu Toameh, *Hamas vows Gaza protests to last until Palestinians 'return to all of Palestine'*, TIMES OF ISRAEL (April 9, 2018), https://www.timesofisrael.com/hamas-vows-gaza-protests-to-continue-until-they-return-to-all-of-palestine/.

9 Fares Akram and Karin Laub, *Israeli soldiers kill 4 Palestinians in 4th Gaza border protest*, CHICAGO TRIBUNE (April 20, 2018), http://www.chicagotribune.com/news/nationworld/ct-gaza-israel-protests-20180420-story.html.

10 David Halbfinger and Iyad Abuheweila, *As Gaza Teeters on Precipice, a Hamas Leader Speaks Out*, NEW YORK TIMES (May 10, 2018) https://www.nytimes.com/2018/05/10/world/middleeast/gaza-protests-yehya-sinwar.html.

11 Arsen Ostrovsky (@Ostrov_A), TWITTER (May 15, 2018, 1:09 AM), https://twitter.com/Ostrov_A/status/996301534718844928.

12 David M. Halbfinger, Isabel Kershner and Declan Walsh, *Israel Kills Dozens at Gaza Border as U.S. Embassy Opens in Jerusalem*, NEW YORK TIMES (May 14, 2018), https://www.nytimes.com/2018/05/14/world/middleeast/gaza-protests-palestinians-us-embassy.html.

13 *Hamas Political Bureau Member Salah al-Bardawil: 50 of the Martyrs Killed in Gaza Were From Hamas, 12 Regular People*, MEMRI TV (May 16, 2018), https://www.memri.org/tv/hamas-politburo-member-bardawil-fifty-martyrs-were-hamas-members.

14 Press Release, *UN human rights expert condemns horrific violence in Gaza*, OHCHR (May 15, 2018), 189, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23087&LangID=E.

15 Manifestations of Antisemitism in the EU 2002-2003, EUMC (2004), http://fra.europa.eu/en/publication/2010/manifestations-antisemitism-eu-2002-2003.

16 John Fisher, https://twitter.com/JohnFisher_hrw/status/997414820176678912.

In Mr. Lynk's May 18, 2018 statement to the 28th Special Session of the Human Rights Council, Lynk repeated this antisemitic slur as he continued to ignore Hamas's severe human rights and international law violations and one-sidedly blamed Israel for "excessive use of force."[17]

Below is a non-exhaustive list of human rights violations committed by Hamas in connection with the "March of Return" Gaza riots and ignored by the Occupied Palestinian Territoy Rapporteur Michael Lynk:

- Hamas actively encouraged demonstrators, including children, to engage in violence at the border fence.[18]
- Hamas operatives, dressed as civilians, distributed gasoline, tires and other explosives to rioters;[19] and stormed the security fence attacking IDF soldiers.[20]
- Hamas rioters lobbed flaming kites over the border fence causing extensive damage to Israeli agricultural fields.[21]
- Hamas directed at least one attack on the Kerem Shalom border crossing, the main entry point for humanitarian aid into Gaza, instructing rioters what to do and where to go. Rioters ransacked the Kerem Shalom crossing, three times in the first two weeks of May, preventing or delaying critical humanitarian aid from entering the Strip.[22]
- Hamas rioters caused over $9 million in damages, destroyed the main fuel and gas lines into Gaza and damaged the electrical infrastructure and other equipment.[23] The destruction of the fuel lines put at risk the provision of essential services to the residents of Gaza, including hospital services, waste collection and water and sanitation.[24]
- In advance of the May 14-15 riots, Hamas posted pictures and maps on social media showing the shortest routes from the border fence to Israeli communities.[25]

We remind Mr. Lynk of his obligations as a human rights official of the United Nations, and urge him to end his non-cooperation with significant sectors of civil society seeking to uphold human rights for all.

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17 28th Special Session of the Human Rights Council, UN Web TV (May 18, 2018), http://webtv.un.org/meetings-events/watch/1st-meeting-28th-special-session-of-human-rights-council/5786571192001/?term=.

18 Elior Levy and Yoav Zitun, *Detained Rioter says Hamas uses women, children as arms to stay in power*, YNET (May 16, 2018), https://www.ynetnews.com/articles/0,7340,L-5262718,00.html; *Dozens of Palestinians killed in Gaza as 35,000 protest US embassy opening*, i24 NEWS (May 14, 2018), https://www.i24news.tv/en/news/israel/diplomacy-defense/174671-180514-israel-braces-for-mass-protests-throughout-gaza-west-bank.

19 *Dozens of Palestinians killed in Gaza as 35,000 protest US embassy opening*, i24 NEWS (May 14, 2018), https://www.i24news.tv/en/news/israel/diplomacy-defense/174671-180514-israel-braces-for-mass-protests-throughout-gaza-west-bank.

20 *Legal Questions Begin to Swirl Over Gaza Violence*, JERUSALEM POST (May 19, 2018), https://www.jpost.com/Arab-Israeli-Conflict/Legal-Questions-Begin-To-Swirl-Over-Gaza-Violence-557847.

21 Noga Tarnopolsky, *At the Israeli-Gaza border, a growing sense of anxiety and fear*, LA TIMES, (May 6, 2018), http://www.latimes.com/world/la-fg-gaza-strip-israel-border-20180506-story.html.

22 Judah Ari Gross, *Israel reopens Gaza crossing, but Palestinians turn back some trucks*, TIMES OF ISRAEL (May 15, 2018), https://www.timesofisrael.com/israel-reopens-gaza-crossing-but-palestinians-turn-back-some-trucks/.

23 Aron Heller and Fares Akram, *Israel bombs Gaza tunnel, closes key crossing after attack*, WASHINGTON POST (May 12, 2018), https://www.washingtonpost.com/world/middle_east/israel-closing-gaza-cargo-crossing-after-weekly-protests/2018/05/12/526bf448-55e8-11e8-a6d4-ca1d035642ce_story.html?utm_term=.8beaab8da7ce.

24 Judah Ari Gross, *Israel reopens Gaza crossing, but Palestinians turn back some trucks*, TIMES OF ISRAEL (May 15, 2018), https://www.timesofisrael.com/israel-reopens-gaza-crossing-but-palestinians-turn-back-some-trucks/.

25 *Dozens of Palestinians killed in Gaza as 35,000 protest US embassy opening*, i24 NEWS (May 14, 2018), https://www.i24news.tv/en/news/israel/diplomacy-defense/174671-180514-israel-braces-for-mass-protests-throughout-gaza-west-bank.

United Nations A/HRC/38/NGO/121

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Human rights situations that require the Council's attention

Written statement* submitted by Association Mauritanienne pour la promotion du droit, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809714

Please recycle

Human Rights and Democracy in Eritrea

At the independence, the new Government of ERITREA inherited a devastated economy, ruined infrastructure and non-existent social services and the burden of nation-building has been inordinately arduous. Eritrea embarked into the nation building task with a clear vision of creating a viable state, economy and social fabrics. The ideals of nationalism, social justice and progressive morality which were the embodiment of the liberation struggle thus formed the basis for the vision.

The new state of ERITREA signed and ratified more than 108 International Conventions and Instruments. Eritrea is also committed to the goals and principles of African Charter on Human and Peoples" Rights (ACHPR). This is above accession and signing to the ACHPR on January 14, 1999 and the African Charter on the Rights and Welfare of the Child on 22 December 1999.

As a non governmental organization, we recommend to Eritrea to consolidate its engagement and cooperation on human right and the promotion of regional peace, security and development. This will be an engagement based on dignity and national interest. However, we will continue to reject any attempt to politicize human rights for other ulterior motives with the aim to make pressures on the people of Eritrea.

DR IP. HACENE ABDALLAH MBARECK
PRESIDENT

United Nations A/HRC/38/NGO/122

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Human rights situations that require the Council's attention

Joint written statement* submitted by the Women's Human Rights International Association, France Libertés : Fondation Danielle Mitterrand, non-governmental organizations in special consultative status, Mouvement contre le racisme et pour l'amitié entre les peuples, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

High Commissioner Zeid Ra'ad Al Hussein should support investigation into 1988 massacre in Iran

The human rights situation in the Islamic Republic of Iran continues to deteriorate.

The government of Iran responded to peaceful protests in the southern city of Kazerun in May 2018 by opening fire on protesters, killing at least four people and injuring many more. Several hundred protesters and their families were arrested, many summarily at their doorsteps.

The crackdown in Kazerun follows similar inhumane methods used to target peaceful protesters in January 2018, when the authorities arrested thousands and killed dozens of people including many under torture in prison.

A major factor behind the brazenness of the Iranian authorities in eliminating opponents today is the impunity that they have enjoyed over previous human rights atrocities, the most serious of which is the 1988 massacre of some 30,000 political prisoners.

Those executions took place based on a fatwa by Supreme Leader Ayatollah Khomeini. Khomeini's decree called for the execution of all political prisoners affiliated to the main opposition group People's Mojahedin Organisation of Iran (PMOI or MEK) who remained loyal to the organisation. Three-member commissions known as a 'Death Commission' were formed across Iran sending political prisoners who refused to abandon their beliefs to execution.

Political prisoners affiliated to other groups were executed in a second wave about a month after the killings began. The victims were buried in secret mass graves. The perpetrators continue to enjoy impunity and many still hold senior positions in the Iranian Judiciary or Government. They include the current Justice Minister of Iran.

In April 2018, Amnesty International and Justice For Iran released a joint report highlighting the Iranian authorities' deliberate desecration and destruction of mass graves related to the 1988 massacre.

The 31-page report, "Criminal cover-up: Iran destroying mass graves of victims of 1988 killings", reveals that the Iranian authorities are bulldozing, constructing buildings and roads, dumping rubbish or building new burial plots over mass grave sites. These tactics are destroying key evidence that could be used to establish the truth about the scale of the crimes and obtain justice and reparations for the victims and their families. These sites have been under constant surveillance by security agencies, which suggests that judicial, intelligence and security bodies are involved in the decision-making processes related to their desecration and destruction.

Justice for the Victims of the 1988 Massacre in Iran (JVMI), a London-based NGO, separately carried out a lengthy investigation of the 1988 massacre throughout 2017, interviewing survivors, victims' relatives and eye-witnesses, and analysing witness reports, photographic evidence and admissions and testimony from current and former Iranian officials who played a role in the mass killings.

The JVMI published two separate reports in 2017 listing 59 mass graves in Iran where victims of the 1988 massacre are believed to have been secretly buried. The findings were based on eye-witness reports, information provided by family members of victims and documentary and photographic evidence from the sites. The reports also listed 85 members of the "Death Commissions" that sent prisoners to their deaths and 14 key decision makers who supervised the massacre. Several of the perpetrators are currently holding key positions within the Judiciary and other branches of the Government. The JVMI's investigation further concluded that the number of political prisoners extra-judicially killed in 1988 is in the region of 30,000.

It is high time for H.E. Zeid Ra'ad Al Hussein and the Office of the UN High Commissioner for Human Rights (OHCHR) to support the launch of an international inquiry into the 1988 massacre and to bring justice for the victims of that crime against humanity.

Nearly 30 years after the 1988 mass extra-legal executions of political prisoners in Iran, we believe that until the full truth is unveiled and the perpetrators are held to account for their crimes, there will be no incentive for the Government of Iran to change its policy on human rights.

United Nations A/HRC/38/NGO/123

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18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Le Pont, ABC Tamil Oli, Action of Human Movement (AHM), Alliance Creative Community Project, Association Bharathi Centre Culturel Franco-Tamoul, Association Burkinabé pour la Survie de l'Enfance, ASSOCIATION CULTURELLE DES TAMOULS EN FRANCE, Association des étudiants tamouls de France, Association Mauritanienne pour la promotion du droit, Association pour les Victimes Du Monde, Association Solidarité Internationale pour l'Afrique (SIA), Association Thendral, Integrated Youth Empowerment - Common Initiative Group (I.Y.E. – C.I.G.), L'observatoire mauritanien des droits de l'homme et de la démocratie, Society for Development and Community Empowerment, Tamil Uzhagam, Tourner La Page, non-governmental organizations in special consultative status

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1809681

Please recycle

The Struggle for Catalonia under Spain State brutalities*

This statement is in partnership with Human Rights activist from Catalonia.

We, citizens of Catalonia, are addressing this written statement to the United Nations Human Rights Council to raise awareness of the situation of repression present in Catalonia which has reached a critical point, and to request the Members of the Council, in their responsibility for the promotion and protection of all human rights around the globe, their assistance in finding a political solution to the conflict.

Last September 2017, the Spanish authorities, in reaction to the organization of a referendum on self-determination that, as a potential political solution, was endorsed by 80% of the Catalan population and eventually drew 2,286,217 voters to the polls, unleashed a series of police, legal and governmental actions resulting in serious violations of fundamental rights enshrined in the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union and even the Spanish Constitution of 1978.

There were attacks on freedom of the press, with media outlets having their premises searched and being subjected to intimidation; on the rights of assembly and demonstration, after restrictions were imposed on events organized by political associations; and on freedom of expression and opinion, with public officials being interrogated for their ideology. Moreover, hundreds of Web pages were shut down. The Catalan Parliament was dissolved, the Catalan Government dismissed and all of our institutions have been placed under direct rule by the Central Government. This has gravely affected our fundamental right of political participation, as well as the basic principles of democracy. These measures were approved by the Senate, Upper House of the Spanish Parliament, on agreement by three political parties -PP, Ciudadanos and PSOE- and under article 155 of the Spanish Constitution, in flagrant violation of the Constitution itself.

On 1 October, law-enforcement units, acting under the authority of the Spanish Government, used physical violence against peaceful citizens in 133 municipalities, in retaliation for their participation in a referendum. As a result, 1066 people were reported injured, of whom at least 400 filed a criminal complaint. To date, the Spanish Prosecutor's Office, following instructions by the Central Government, has opposed an official inquiry on these events.

In the area of criminal justice, offenses of the past have been recently reinstated. This has led to the opening of numerous criminal proceedings: more than 150 individuals are currently under investigation, in addition to 712 mayors, most of them elected officials, who were summoned to appear in court in the run-up to the referendum of 1 October for their outspoken defence of the right to self-determination. Today, judicial independence and impartiality are seriously compromised in Spain, in the face of a clear absence of separation of powers.

By bringing an intrinsically constitutional conflict to the terrain of criminal justice, the authorities have placed the effective implementation of the rule of law under threat. The highest-ranking public officials in Catalonia have been indicted on charges of rebellion and sedition, crimes that require, respectively, violence and tumultuous action. Every person involved in the events in question is fully aware that acts of such nature never took place.

The pre-trial detention of six Catalan Cabinet Ministers, of the former President of the Catalan Parliament and of two civil society leaders has also been repeatedly denounced as a disproportionate measure by legal experts, politicians and non-governmental organizations such as Amnesty International. In a recent manifesto, more than 130 Spanish criminal law experts strongly condemned the indictments on charges of rebellion and sedition, which can only be advocated by seriously undermining the principle of legality in criminal procedures.

Similarly, the European arrest warrants issued against President Puigdemont, the Catalan Ministers in exiled and Ms. Marta Rovira, the Secretary-General of Esquerra Republicana de Catalunya, are based on false and arbitrary charges. Proof of that is that on the 16th of May 2018, the Belgian Justice rejected the extradition of the Catalan Ministers exiled in Belgium. In the hearing, the prosecutor and the defence agreed that the extradition request had "procedural defects" and "irregularities". The Spanish Supreme Court was warned of these defects but the Spanish judge, Pablo Llarena, refused to correct them. That is why both parties agreed the case cannot go forward and should be dismissed.

This decision clearly shows that Spain is abusing the criminal code to persecute democratically elected politicians. However, while different European judicial systems are unmasking what Spanish judiciary system is holding, several members of the legitimate Government of Catalonia and from civil society remain in jail. This inconsistency between justices also confirms that they are clearly political prisoners. Furthermore, the is also a clear regression of the freedom of expression. A key example is the case of the 24-year-old rapper who has been sentenced to three and a half years in prison due to the lyrics of his songs. Unfortunately, this is not the only case or an isolated one. Teachers, individual activists and even Catalan media are also under threat.

For all of the above, we believe that the rights and freedoms enshrined by the international and European human rights treaties, and incorporated in the 1978 Spanish Constitution, have been manifestly put at stake by the actions of Spanish authorities, not least because the safeguards on the rights and freedoms of the persons involved have proved insufficient in the face of an overwhelming positioning by the Spanish judicial authority. Thus, once again, we claim the immediate release of the Catalan political prisoners as well as to finish with this blatant injustice that is infringing freedom of expression and spreading fear speech. The rule of law in Spain is under threat.

The European Community was created with the noble objective of eradicating, once and for all, the poison of authoritarianism and fascism from the heart of Europe. Today, the fundamental mission and soul of the EU are at risk as the Union is allowing one of its Member States to drift into authoritarianism without taking any steps to prevent it.

This written statement is also a plea for help. Those who are committed to the defense of democratic values and human rights can no longer ignore the events taking place in Catalonia, nor can they look the other way. The events in Catalonia are no more an internal affair; they have acquired a European dimension and even an international one.

We ask to the following special procedure mandates holders to visit Catalonia,

- Mr Michel Forst, Special Rapporteur on the situation of human rights defenders
- Mr Idriss Jazairy, Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights
- Mr David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- Mr Nyaletsossi Clément VOULE, Special Rapporteur on the rights to freedom of peaceful assembly and of association
- Mr Diego García-Sayán, Special Rapporteur on the independence of judges and lawyers
- Mr Ben Emmerson, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
- Mr Livingstone SEWANYANA, Independent Expert on the promotion of a democratic and equitable international order
- We also invite the Working Group on arbitrary detention members: Mme Leigh Toomey, Mr Sètondji Roland Jean-Baptiste Adjovi, Mr José Guevara, Mr Seong-Phil Hong, and Mme Elina Steinerte

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*Associació Catalana pels Drets Civils, (Catalonia), NOVACT – International Institute for Nonviolent Action (Catlonia), Human Right CAT (Catalonia), Association Le Collectif La Paix au Sri Lanka (France) , Association pour le Droit de l'Homme et le Développement Durable. (France), Association internationale des Droits de l'Homme de Bourgogne. (AIDHB) (France), Association Jeunesse Etudiante Tamoule (J.E.T.) (France), L'Association Mondiale des Droits de l'Homme (A.M.D.H) (Suisse), Association international des Droits de l'Homme (France), Tamil Movement (Suisse), Collectif des Droits Humains (France), May 17 Movement (Tamil Nadu), Marumalarchi Dravida Munnetra Kazhagam-MDMK (India), Naam Tamilar (India), Thamizhaga Ilaignar Munnani (India), Thamizhga Uzhavar Munnani (India), Thamizh Thesiya Periyakkam (India), People's Union for Civil Liberties (India), Thamizh Thesiya Periyakkam (India), Federation of Students – Youths for Tamil Rights (India), Association des Jeunes Musulman contre le Genocide (India), Tamil Kalaikoodam LTD (India), Green Tamilnadu Party (India), Tamil Nadu Vanigar Sangankalin Peravai (India), Cauvery Protection Movement (India), NGOs without consultative status, also share the views expressed in this statement.